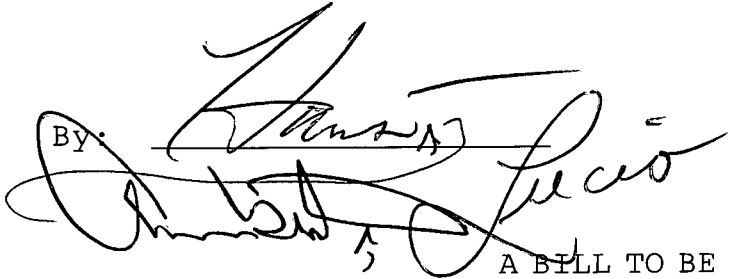


By: 

S.B. No. 1176

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of roofing contractors; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 7, Occupations Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. REGULATION OF CONSTRUCTION OF HOUSING AND BUILDINGS

CHAPTER 1251. ROOFING CONTRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1251.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Roofing Contractors Advisory Board.

(2) "Commercial roofing" means the exterior roof, cover, or skin of the roof assembly consisting of membrane, metal panels, sheets, shingles, tiles, slate, or other materials on any building or structure other than residential buildings or structures.

(3) "Commission" means the Texas Commission of Licensing and Regulation.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Executive director" means the executive director of the department.

(6) "Qualifying party" means an individual who

1 possesses all the necessary qualifications for a license and who is
2 a principal of a business entity licensed under this chapter.

3 (7) "Residential roofing" means any material applied
4 to the exterior roof framing, whether of wood or steel, on a
5 single-family home, duplex, triplex, or fourplex.

6 (8) "Roofing contracting" means performing or
7 offering to perform the installation, construction, maintenance,
8 service, repair, alteration, or modification of a roofing product
9 or equipment in roofs.

10 Sec. 1251.002. EXEMPTIONS. (a) This chapter does not
11 apply to a person:

12 (1) while the person performs roofing contracting:

13 (A) on new residential construction of a
14 single-family home, duplex, triplex, or fourplex;

15 (B) under the direct supervision of an individual
16 license holder;

17 (C) on property owned by the person and used as
18 the person's residence;

19 (D) on a dwelling owned by a member of the
20 person's family;

21 (E) on property that is primarily for
22 agricultural use; or

23 (F) on property that is a portable building or a
24 garage that is not connected to a dwelling;

25 (2) who is registered and regulated as a manufacturer,
26 retailer, or installer under Chapter 1201 while the person performs
27 roofing contracting in the building or installation of manufactured

1 homes or in providing retailer or manufacturer warranty services
2 free of charge to the consumer; or

3 (3) who is a maintenance engineer while the person
4 performs roofing contracting as an employee of the property owner,
5 the property lessee, or the management company managing the
6 property where the roofing contracting is being performed.

7 (b) This chapter does not restrict the practice of
8 architecture or engineering by a person licensed in this state to
9 practice that profession.

10 [Sections 1251.003-1251.050 reserved for expansion]

11 SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES

12 Sec. 1251.051. ADMINISTRATION; ENFORCEMENT. (a) The
13 department shall administer this chapter.

14 (b) The department may contract with another state agency or
15 with a political subdivision of the state for the enforcement of
16 this chapter and the rules adopted and orders issued under this
17 chapter.

18 Sec. 1251.052. RULES; STANDARDS. (a) The department may
19 adopt rules to enforce this chapter.

20 (b) The department shall adopt rules for the practice of
21 roofing contracting consistent with this chapter. The standards
22 prescribed by rule must be substantially the same as the standards
23 set forth in the roofing manufacturers' standard requirements.

24 Sec. 1251.053. FORMS. The department shall prescribe
25 application forms for original and renewal licenses and shall
26 design the licenses.

27 Sec. 1251.054. ON-LINE DIRECTORY. (a) The department

1 shall make available on-line a directory of persons licensed under
2 this chapter.

3 (b) The department may not charge for access to the on-line
4 directory.

5 Sec. 1251.055. CONSUMER COMPLAINT INVESTIGATION. (a) The
6 department shall investigate consumer complaints filed with the
7 department. If the department determines after investigation that
8 a license holder has violated this chapter or a rule adopted under
9 this chapter, the department may take appropriate action under
10 Subchapter F.

11 (b) The department shall maintain a file on each written
12 complaint filed with the department. The file must include:

- 13 (1) the name of the person who filed the complaint;
14 (2) the date the complaint is received by the
15 department;
16 (3) the subject matter of the complaint;
17 (4) the name of each person contacted in relation to
18 the complaint;
19 (5) a summary of the results of the review or
20 investigation of the complaint; and
21 (6) an explanation of the reason the file was closed,
22 if the department closed the file without taking action other than
23 to investigate the complaint.

24 (c) The department shall provide to the person filing the
25 complaint and to each person who is a subject of the complaint a
26 copy of the department's policies and procedures relating to
27 complaint investigation and resolution.

1 (d) The department, at least quarterly until final
2 disposition of the complaint, shall notify the person filing the
3 complaint and each person who is a subject of the complaint of the
4 status of the investigation unless the notice would jeopardize an
5 undercover investigation.

6 [Sections 1251.056-1251.100 reserved for expansion]

7 SUBCHAPTER C. ADVISORY BOARD

8 Sec. 1251.101. ADVISORY BOARD. (a) The Roofing
9 Contractors Advisory Board is created to advise the department in:

10 (1) adopting rules;

11 (2) enforcing and administering this chapter; and

12 (3) determining the content of examinations.

13 (b) The advisory board shall advise the commission in
14 setting fees.

15 Sec. 1251.102. COMPOSITION. (a) The advisory board is
16 composed of six members appointed by the executive director who are
17 experienced in roofing contracting.

18 (b) The executive director or the executive director's
19 designee shall serve as an ex officio, nonvoting member of the
20 advisory board.

21 Sec. 1251.103. APPOINTMENT. The executive director shall
22 appoint the advisory board members as follows:

23 (1) three members must be full-time licensed roofing
24 contractors with at least 10 years' experience in roofing
25 contracting and must hold the following licenses:

26 (A) one member must hold a commercial license;

27 (B) one member must hold a residential license;

1 and

2 (C) one member must hold a commercial and a
3 residential license; and

4 (2) three members must be public representatives.

5 Sec. 1251.104. TERM. Members of the advisory board hold
6 office for staggered terms of six years, with two terms expiring on
7 February 1 of each odd-numbered year.

8 Sec. 1251.105. PRESIDING OFFICER. The executive director
9 shall designate a member of the advisory board to serve as presiding
10 officer.

11 Sec. 1251.106. VACANCIES. If a vacancy occurs on the
12 advisory board, the executive director shall appoint a member who
13 represents the same interests as the former member to serve the
14 unexpired term.

15 Sec. 1251.107. MEETINGS. The advisory board shall meet at
16 least once every six months and may meet at other times at the call
17 of the presiding officer and at a place in this state designated by
18 the presiding officer.

19 Sec. 1251.108. VOTES. A decision of the advisory board is
20 not effective unless it receives the affirmative vote of at least a
21 majority of the members present.

22 Sec. 1251.109. COMPENSATION NOT ALLOWED. An advisory board
23 member serves without compensation.

24 [Sections 1251.110-1251.150 reserved for expansion]

25 SUBCHAPTER D. LICENSE REQUIREMENTS

26 Sec. 1251.151. LICENSE REQUIRED; CITATION. (a) Unless
27 exempted under Section 1251.002, a person may not perform roofing

1 contracting without a license issued under this chapter.

2 (b) A business entity that holds a license must have at
3 least one qualifying party.

4 (c) The license holder and the license holder's qualifying
5 party shall comply with the requirements of this chapter.

6 (d) The commission or a municipal official may issue a
7 citation to a person who performs roofing contracting without a
8 license issued under this chapter.

9 Sec. 1251.152. SCOPE OF LICENSE. A license is valid
10 throughout this state, and the license holder is not required to
11 hold a municipal license or certificate to practice roofing
12 contracting in any municipality in this state.

13 Sec. 1251.153. ROOFING CONTRACTOR LICENSE CLASSES. Roofing
14 contractor licenses are as follows:

15 (1) a Class I license entitles the license holder to
16 perform commercial and residential roofing services;

17 (2) a Class II license entitles the license holder to
18 perform only commercial roofing services; and

19 (3) a Class III license entitles the license holder to
20 perform only residential roofing services.

21 Sec. 1251.154. APPLICATION; ELIGIBILITY. (a) A license
22 application must be made on a form prescribed by the department and
23 must specify the class of license the applicant seeks.

24 (b) To be eligible for a license, the qualifying party must
25 be at least 18 years old and must present to the department
26 satisfactory evidence of at least three years of practical
27 experience in roofing contracting in the previous five years.

1 (c) The qualifying party's application must be accompanied
2 by:

3 (1) a statement of the applicant's practical
4 experience;

5 (2) evidence of the insurance coverage required under
6 this chapter; and

7 (3) the examination fee.

8 Sec. 1251.155. EXAMINATIONS. (a) The department shall
9 prescribe the method and content of examinations administered under
10 this chapter and shall set compliance requirements for the
11 examinations. The examination shall be offered at least quarterly
12 at various locations around the state as determined by the
13 commission.

14 (b) The department shall prescribe separate examinations
15 for each class of license. For a Class I license, the department
16 shall prescribe separate examinations for commercial and
17 residential services.

18 (c) The qualifying party must pass the examination before a
19 license may be issued.

20 (d) The qualifying party may retake the examination.

21 Sec. 1251.156. ISSUANCE; TERM. (a) The department shall
22 issue a license to a person who qualifies for a license under this
23 chapter.

24 (b) A license is valid for one year from the date of
25 issuance.

26 Sec. 1251.157. RENEWAL; CONTINUING EDUCATION. (a) To
27 renew a license, a qualifying party of the license holder must

1 complete eight hours of continuing education annually.

2 (b) The department shall recognize, prepare, or administer
3 a continuing education program for the qualifying parties of
4 license holders. The department may recognize a course offered by
5 an appropriate trade association as satisfaction of the continuing
6 education required under this section.

7 Sec. 1251.158. INSURANCE REQUIREMENT. (a) A license
8 holder shall maintain general liability insurance coverage in the
9 following amounts:

10 (1) for a Class I license, \$250,000 per occurrence,
11 with a minimum total aggregate of \$500,000;

12 (2) for a Class II license, \$250,000 per occurrence,
13 with a minimum total aggregate of \$500,000; and

14 (3) for a Class III license, \$100,000 minimum total
15 aggregate.

16 (b) Each applicant for a license, and each license holder,
17 on renewal of the license, shall provide to the department a
18 certificate of insurance that shows the license holder's name,
19 business name, and address as it appears on the license. The
20 certificate form submitted must be the form furnished by the
21 department. Each certificate of insurance shall reflect all
22 assumed names used by the license holder and registered with the
23 department. The department may not accept an insurance binder or an
24 interim certificate valid for less than 60 days.

25 (c) The department shall adopt rules regarding requirements
26 for the certificates of insurance. The rules must require the
27 insurance carrier to notify the department regarding cancellation

1 or nonrenewal of the insurance coverage by the insurance carrier.

2 (d) Insurance must be obtained from an insurer authorized to
3 engage in the business of insurance in this state or from an
4 eligible surplus lines insurer, as defined by Chapter 981,
5 Insurance Code.

6 (e) The department shall notify a license holder whose proof
7 of insurance has expired that the license holder has an insurance
8 violation.

9 Sec. 1251.159. USE, DISPLAY, AND ADVERTISEMENT OF LICENSE;
10 RULES. With the advice of the advisory board, the department shall
11 adopt rules relating to the use, display, and advertisement of a
12 license issued under this chapter.

13 Sec. 1251.160. DISPOSAL OF ROOFING MATERIALS; RULES. The
14 department shall adopt rules that require a license holder to
15 obtain a permit from an approved landfill to dispose of roofing
16 materials. The rules must include a requirement that a license
17 holder maintain a record for each disposal of roofing materials by
18 the license holder.

19 Sec. 1251.161. RECIPROCITY. The department may waive any
20 prerequisite, except an insurance requirement, to obtaining a
21 license for an applicant who holds a license issued by another
22 jurisdiction with which this state has a reciprocity agreement.
23 The commission may make an agreement, subject to the approval of the
24 governor, with another state to allow for licensing by reciprocity.

25 Sec. 1251.162. TEMPORARY LICENSE. (a) The department may
26 issue a temporary license to a license holder for a principal of a
27 license holder to serve as that license holder's qualifying party

1 if the original qualifying party for the license holder:

2 (1) becomes incapacitated and unable to serve in the
3 normal capacity of principal of the license holder; or

4 (2) is no longer available due to the dissolution of a
5 partnership, corporation, or other legal entity.

6 (b) The applicant for the temporary license shall apply to
7 the department on a form prescribed by the department and pay the
8 required fee.

9 (c) The temporary license is valid for 30 days beyond the
10 date of the next examination or six months, whichever is less. The
11 temporary license must be of the same class as the license being
12 replaced.

13 (d) A temporary license is not renewable, but a second
14 temporary license may be issued if the license holder's qualifying
15 party becomes unavailable in circumstances that make the license
16 holder again eligible to receive a temporary license.

17 [Sections 1251.163-1251.200 reserved for expansion]

18 SUBCHAPTER E. PROHIBITED ACTIVITIES

19 Sec. 1251.201. PROPER ROOFING INSTALLATION REQUIRED. (a)
20 In this section, "mechanical integrity" means physical
21 installation of products, systems, or equipment in accordance with
22 their intended purpose and according to industry standards at least
23 as strict as the roofing manufacturers' specifications.

24 (b) The failure to provide proper installation consistent
25 with the manufacturer's specifications or consistent with commonly
26 accepted roofing practices, proper service, and mechanical
27 integrity under this chapter violates this chapter.

1 Sec. 1251.202. MISREPRESENTATION OF ROOFING CONTRACTING
2 SERVICES. An intentional or knowing misrepresentation of a
3 necessary roofing contracting service, roofing contracting service
4 to be provided, or a roofing contracting service that has been
5 provided, violates this chapter.

6 Sec. 1251.203. CERTAIN ADVERTISING PROHIBITED. A person
7 may not advertise to the public that the person is engaged in the
8 business of roofing contracting unless the person holds a license
9 issued under this chapter.

10 [Sections 1251.204-1251.250 reserved for expansion]

11 SUBCHAPTER F. PENALTIES AND ENFORCEMENT

12 Sec. 1251.251. DENIAL, SUSPENSION, OR REVOCATION OF
13 CERTIFICATE. (a) A violation of this chapter, a rule adopted under
14 this chapter, or an order issued under this chapter is a ground for
15 the denial, suspension, or revocation of a license and a ground for
16 the imposition of an administrative penalty under Subchapter F,
17 Chapter 51.

18 (b) The department may place on probation a person whose
19 license is suspended. If a license suspension is probated, the
20 department may require the person to:

21 (1) report regularly to the department on matters that
22 are the basis of the probation;

23 (2) limit practice to the areas prescribed by the
24 department; or

25 (3) continue or review professional education until
26 the person or the person's qualifying party attains a degree of
27 skill satisfactory to the department in those areas that are the

1 basis of the probation.

2 Sec. 1251.252. EMERGENCY ORDERS. (a) The department may
3 issue an emergency order as necessary to enforce this chapter if the
4 department determines that an emergency exists or formerly existed
5 requiring immediate temporary action to protect the public health
6 and safety. The order may be issued without notice and hearing or
7 with notice and hearing as the department considers practicable
8 under the circumstances.

9 (b) If an emergency order is issued under this section
10 without a hearing, the department shall set the time and place for a
11 hearing to affirm, modify, or set aside the emergency order.

12 Sec. 1251.253. CEASE AND DESIST ORDERS. The commission may
13 issue cease and desist orders.

14 Sec. 1251.254. MUNICIPAL REGULATION. (a) A municipality
15 may by ordinance adopt and enforce standards for roofing
16 contractors that are consistent with the standards established
17 under this chapter.

18 (b) A municipality may not impose a license or registration
19 fee on a roofing contractor licensed under this chapter.

20 (c) The municipality may report a violation of this chapter
21 to the commission. If the municipality elects to report the
22 violation, it shall do so not later than the 10th day after the date
23 on which it discovers the violation.

24 (d) Conviction of an offense under the municipal ordinance
25 is a ground for the denial, suspension, or revocation of a license
26 under Section 1251.251.

27 Sec. 1251.255. ENFORCEMENT OF CONTRACTS. (a) A person who

1 performs roofing contracting without holding the appropriate
2 license may not collect a fee or otherwise enforce a contract for
3 the roofing service performed. To enforce a contract for the
4 performance of roofing contracting, the person performing the
5 service must present proof that the person held a license at the
6 time the contract was signed and the work was performed.

7 (b) The department director shall adopt rules relating to
8 the manner in which proof may be presented under this section.

9 Sec. 1251.256. OFFENSE; CRIMINAL PENALTY. (a) A person
10 commits an offense if the person knowingly or intentionally engages
11 in roofing contracting without holding a license.

12 (b) An offense under this section is a Class C misdemeanor.

13 SECTION 2. (a) The Texas Department of Licensing and
14 Regulation shall issue a roofing contracting license under
15 Subchapter D, Chapter 1251, Occupations Code, as added by this Act,
16 without an examination for the qualifying party, if the qualifying
17 party:

18 (1) is, on the effective date of this Act, a certified
19 roofing contractor in good standing as tested and approved by an
20 appropriate roofing trade association recognized by the
21 department;

22 (2) applies to the executive director of the Texas
23 Department of Licensing and Regulation not later than September 1,
24 2004;

25 (3) pays the required fee;

26 (4) shows evidence of insurance coverage required
27 under Section 1251.158, Occupations Code, as added by this Act; and

1 (5) submits a copy of the contractor's certification
2 that has been attested to by the trade association.

3 (b) The class of a license issued under this section is
4 based on the classification of certification that is currently held
5 by the contractor and must correspond as follows:

6 (1) a certified commercial and residential roofing
7 contractor shall receive a Class I license;

8 (2) a certified commercial roofing contractor shall
9 receive a Class II license; and

10 (3) a certified residential roofing contractor shall
11 receive a Class III license.

12 (c) A person who is issued a license under this section and
13 the qualifying party for that license holder are subject to all
14 other provisions of Chapter 1251, Occupations Code, as added by
15 this Act, including provisions for the renewal of the roofing
16 contractor license.

17 SECTION 3. (a) The Texas Department of Licensing and
18 Regulation shall issue a license under Chapter 1251, Occupations
19 Code, as added by this Act, to a qualifying party without requiring
20 the qualifying party to pass the examination required under Section
21 1251.155, Occupations Code, as added by this Act, if the qualifying
22 party:

23 (1) provides proof satisfactory to the department that
24 the qualifying party has been engaged in the business of roofing
25 contracting during the five years preceding the date of the license
26 application; and

27 (2) otherwise satisfies the requirements of Chapter

1 1251, Occupations Code, as added by this Act.

2 (b) A qualifying party who is issued a license under this
3 section must pass the examination administered under Section
4 1251.155, Occupations Code, as added by this Act, not later than
5 September 1, 2005.

6 SECTION 4. In making the initial appointments to the
7 Roofing Contractors Advisory Board, the executive director of the
8 Texas Department of Licensing and Regulation shall designate two
9 members for terms expiring on February 1, 2005, two members for
10 terms expiring on February 1, 2007, and two members for terms
11 expiring on February 1, 2009. An initial board member appointed
12 under Section 1251.103(1), Occupations Code, as added by this Act,
13 is not required to hold a license until September 1, 2004, but must
14 be eligible to hold a license under Chapter 1251, Occupations Code,
15 as added by this Act, as of the time of the initial appointment.

16 SECTION 5. (a) Except as provided by Subsection (b) of this
17 section, this Act takes effect September 1, 2003.

18 (b) Section 1251.151 and Subchapters E and F, Chapter 1251,
19 Occupations Code, as added by this Act, take effect September 1,
20 2004.

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that CSSB 1176, by Senator Harris,
(Bill No.) (Author/Sponsor)
was heard by the Committee on Business & Commerce on May 6, 2003,
and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Barbara Henderson
(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

1-1 By: Harris, Armbrister, Lucio S.B. No. 1176
1-2 (In the Senate - Filed March 11, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 May 9, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; May 9, 2003, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1176 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of roofing contractors; providing
1-11 penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Title 7, Occupations Code, is amended by adding
1-14 Subtitle D to read as follows:

1-15 SUBTITLE D. REGULATION OF CONSTRUCTION OF HOUSING AND BUILDINGS

1-16 CHAPTER 1251. ROOFING CONTRACTORS

1-17 SUBCHAPTER A. GENERAL PROVISIONS

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1-19 (1) "Advisory board" means the Roofing Contractors
1-20 Advisory Board.

1-21 (2) "Commercial roofing" means the exterior roof,
1-22 cover, or skin of the roof assembly consisting of membrane, metal
1-23 panels, sheets, shingles, tiles, slate, or other materials on any
1-24 building or structure other than residential buildings or
1-25 structures.

1-26 (3) "Commission" means the Texas Commission of
1-27 Licensing and Regulation.

1-28 (4) "Department" means the Texas Department of
1-29 Licensing and Regulation.

1-30 (5) "Executive director" means the executive director
1-31 of the department.

1-32 (6) "Qualifying party" means an individual who
1-33 possesses all the necessary qualifications for a license and who is
1-34 a principal of a business entity licensed under this chapter.

1-35 (7) "Residential roofing" means any material applied
1-36 to the exterior roof framing, whether of wood or steel, on a
1-37 single-family home, duplex, triplex, or fourplex.

1-38 (8) "Roofing contracting" means performing or
1-39 offering to perform the installation, construction, maintenance,
1-40 service, repair, alteration, or modification of a roofing product
1-41 or equipment in roofs.

1-42 Sec. 1251.002. EXEMPTIONS. (a) This chapter does not
1-43 apply to a person:

1-44 (1) while the person performs roofing contracting:

1-45 (A) on new residential construction of a
1-46 single-family home, duplex, triplex, or fourplex;

1-47 (B) under the direct supervision of an individual
1-48 license holder;

1-49 (C) on property owned by the person and used as
1-50 the person's residence;

1-51 (D) on a dwelling owned by a member of the
1-52 person's family;

1-53 (E) on property that is primarily for
1-54 agricultural use; or

1-55 (F) on property that is a portable building or a
1-56 garage that is not connected to a dwelling;

1-57 (2) who is registered and regulated as a manufacturer,
1-58 retailer, or installer under Chapter 1201 while the person performs
1-59 roofing contracting in the building or installation of manufactured
1-60 homes or in providing retailer or manufacturer warranty services
1-61 free of charge to the consumer;

1-62 (3) who is a maintenance engineer while the person
1-63 performs roofing contracting as an employee of the property owner,

the property lessee, or the management company managing the property where the roofing contracting is being performed;

(4) that qualifies for an exemption from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) of that code; or

(5) who collects less than \$250,000 in revenues from commercial or residential roofing in one calendar year as determined by the department.

(b) This chapter does not restrict the practice of architecture or engineering by a person licensed in this state to practice that profession.

[Sections 1251.003-1251.050 reserved for expansion]

SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES

Sec. 1251.051. ADMINISTRATION; ENFORCEMENT; FEES.

(a) The department shall administer this chapter.

(b) The department may contract with another state agency or with a political subdivision of the state for the enforcement of this chapter and the rules adopted and orders issued under this chapter.

(c) The commission may set fees in amounts reasonable and necessary to recover the costs of administering this chapter, including fees for administration of continuing education courses, examinations, and issuance of licenses, including renewals and temporary licenses.

Sec. 1251.052. RULES; STANDARDS. (a) The department may adopt rules to enforce this chapter.

(b) The department shall adopt rules for the practice of roofing contracting consistent with this chapter. The standards prescribed by rule must be substantially the same as the standards set forth in the roofing manufacturers' standard requirements.

Sec. 1251.053. FORMS. The department shall prescribe application forms for original and renewal licenses and shall design the licenses.

Sec. 1251.054. ON-LINE DIRECTORY. (a) The department shall make available on-line a directory of persons licensed under this chapter.

(b) The department may not charge for access to the on-line directory.

Sec. 1251.055. CONSUMER COMPLAINT INVESTIGATION. (a) The department shall investigate consumer complaints filed with the department. If the department determines after investigation that a license holder has violated this chapter or a rule adopted under this chapter, the department may take appropriate action under Subchapter F.

(b) The department shall maintain a file on each written complaint filed with the department. The file must include:

(1) the name of the person who filed the complaint;
(2) the date the complaint is received by the department;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

(c) The department shall provide to the person filing the complaint and to each person who is a subject of the complaint a written summary of the department's policies and procedures relating to complaint investigation and resolution. The department shall make the summary available on the department's Internet site.

(d) The department, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

[Sections 1251.056-1251.100 reserved for expansion]

SUBCHAPTER C. ADVISORY BOARD

Sec. 1251.101. ADVISORY BOARD. (a) The Roofing Contractors Advisory Board is created to advise the department in:

- (1) adopting rules;
- (2) enforcing and administering this chapter; and
- (3) determining the content of examinations.

(b) The advisory board shall advise the commission in setting fees.

Sec. 1251.102. COMPOSITION. (a) The advisory board is composed of six members appointed by the presiding officer of the commission, with the commission's approval.

(b) The executive director or the executive director's designee shall serve as an ex officio, nonvoting member of the advisory board.

Sec. 1251.103. APPOINTMENT. The presiding officer of the commission shall appoint the advisory board members as follows:

(1) three members must be full-time licensed roofing contractors with at least 10 years' experience in roofing contracting and must hold the following licenses:

- (A) one member must hold a commercial license;
- (B) one member must hold a residential license;

and

(C) one member must hold a commercial and a residential license; and

(2) three members must be public representatives.

Sec. 1251.104. TERM. Members of the advisory board hold office for staggered terms of six years, with two terms expiring on February 1 of each odd-numbered year.

Sec. 1251.105. PRESIDING OFFICER. The presiding officer of the commission, with the commission's approval, shall designate a member of the advisory board to serve as presiding officer of the advisory board.

Sec. 1251.106. VACANCIES. If a vacancy occurs on the advisory board, the presiding officer of the commission, with the commission's approval, shall appoint a member who represents the same interests as the former member to serve the unexpired term.

Sec. 1251.107. MEETINGS. The advisory board shall meet at least once every six months and may meet at other times at the call of the presiding officer of the commission.

Sec. 1251.108. VOTES. A decision of the advisory board is not effective unless it receives the affirmative vote of at least a majority of the members present.

Sec. 1251.109. COMPENSATION NOT ALLOWED. An advisory board member serves without compensation.

[Sections 1251.110-1251.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 1251.151. LICENSE REQUIRED; CITATION. (a) Unless exempted under Section 1251.002, a person may not perform roofing contracting without a license issued under this chapter.

(b) A business entity that holds a license must have at least one qualifying party.

(c) The license holder and the license holder's qualifying party shall comply with the requirements of this chapter.

(d) The commission or a municipal official may issue a citation to a person who performs roofing contracting without a license issued under this chapter.

Sec. 1251.152. SCOPE OF LICENSE. A license is valid throughout this state, and the license holder is not required to hold a municipal license or certificate to practice roofing contracting in any municipality in this state.

Sec. 1251.153. ROOFING CONTRACTOR LICENSE CLASSES. Roofing contractor licenses are as follows:

(1) a Class I license entitles the license holder to perform commercial and residential roofing services;

(2) a Class II license entitles the license holder to perform only commercial roofing services; and

(3) a Class III license entitles the license holder to perform only residential roofing services.

Sec. 1251.154. APPLICATION; ELIGIBILITY. (a) A license

4-1 application must be made on a form prescribed by the department and
 4-2 must specify the class of license the applicant seeks.

4-3 (b) To be eligible for a license, the qualifying party must
 4-4 be at least 18 years old and must present to the department
 4-5 satisfactory evidence of at least three years of practical
 4-6 experience in roofing contracting in the previous five years.

4-7 (c) The qualifying party's application must be accompanied
 4-8 by:

4-9 (1) a statement of the applicant's practical
 4-10 experience;

4-11 (2) evidence of the insurance coverage required under
 4-12 this chapter;

4-13 (3) the application fee; and

4-14 (4) the examination fee.

4-15 Sec. 1251.155. EXAMINATIONS. (a) The department shall
 4-16 prescribe the method and content of examinations administered under
 4-17 this chapter and shall set compliance requirements for the
 4-18 examinations. The examination shall be offered at least quarterly
 4-19 at various locations around the state as determined by the
 4-20 department.

4-21 (b) The department shall prescribe separate examinations
 4-22 for each class of license. For a Class I license, the department
 4-23 shall prescribe separate examinations for commercial and
 4-24 residential services.

4-25 (c) The qualifying party must pass the examination before a
 4-26 license may be issued.

4-27 (d) The qualifying party may retake the examination.

4-28 Sec. 1251.156. ISSUANCE; TERM. (a) The department shall
 4-29 issue a license to a person who qualifies for a license under this
 4-30 chapter.

4-31 (b) A license is valid for one year from the date of
 4-32 issuance.

4-33 Sec. 1251.157. RENEWAL; CONTINUING EDUCATION. (a) To
 4-34 renew a license, a qualifying party of the license holder must:

4-35 (1) complete eight hours of continuing education
 4-36 annually; and

4-37 (2) provide proof of maintenance of the insurance
 4-38 required by this chapter.

4-39 (b) The department shall recognize, prepare, or administer
 4-40 a continuing education program for the qualifying parties of
 4-41 license holders. The department may recognize a course offered by a
 4-42 trade association or other providers.

4-43 Sec. 1251.158. INSURANCE DISCLOSURE. A license holder who
 4-44 does not maintain general liability insurance coverage for work
 4-45 performed under this chapter must disclose that fact to each
 4-46 customer on a job in writing on a form prescribed by the department.
 4-47 The customer must sign the disclosure before the license holder may
 4-48 commence work for that customer.

4-49 Sec. 1251.159. USE, DISPLAY, AND ADVERTISEMENT OF LICENSE;
 4-50 RULES. With the advice of the advisory board, the department shall
 4-51 adopt rules relating to the use, display, and advertisement of a
 4-52 license issued under this chapter.

4-53 Sec. 1251.160. DISPOSAL OF ROOFING MATERIALS; RULES. The
 4-54 department shall adopt rules that require a license holder to
 4-55 obtain a permit from an approved landfill to dispose of roofing
 4-56 materials. The rules must include a requirement that a license
 4-57 holder maintain a record for each disposal of roofing materials by
 4-58 the license holder.

4-59 Sec. 1251.161. RECIPROCITY. The department may waive any
 4-60 prerequisite, except an insurance requirement, to obtaining a
 4-61 license for an applicant who holds a license issued by another
 4-62 jurisdiction with which this state has a reciprocity agreement.
 4-63 The commission may make an agreement, subject to the approval of the
 4-64 governor, with another state to allow for licensing by reciprocity.

4-65 Sec. 1251.162. TEMPORARY LICENSE. (a) The department may
 4-66 issue a temporary license to a license holder for a principal of a
 4-67 license holder to serve as that license holder's qualifying party
 4-68 if the original qualifying party for the license holder:

4-69 (1) becomes incapacitated and unable to serve in the

normal capacity of principal of the license holder; or

(2) is no longer available due to the dissolution of a partnership, corporation, or other legal entity.

(b) The applicant for the temporary license shall apply to the department on a form prescribed by the department and pay the required fee.

(c) The temporary license is valid for 60 days beyond the date of the next examination or six months, whichever is less. The temporary license must be of the same class as the license being replaced.

[Sections 1251.163-1251.200 reserved for expansion]

SUBCHAPTER E. PROHIBITED ACTIVITIES

Sec. 1251.201. PROPER ROOFING INSTALLATION REQUIRED.

(a) In this section, "mechanical integrity" means physical installation of products, systems, or equipment in accordance with their intended purpose and according to industry standards at least as strict as the roofing manufacturers' specifications.

(b) The failure to provide proper installation consistent with the manufacturer's specifications or consistent with commonly accepted roofing practices, proper service, and mechanical integrity under this chapter violates this chapter.

Sec. 1251.202. MISREPRESENTATION OF ROOFING CONTRACTING SERVICES. An intentional or knowing misrepresentation of a necessary roofing contracting service, roofing contracting service to be provided, or a roofing contracting service that has been provided, violates this chapter.

Sec. 1251.203. CERTAIN ADVERTISING PROHIBITED. A person may not advertise to the public that the person is engaged in the business of roofing contracting unless the person holds a license issued under this chapter.

[Sections 1251.204-1251.250 reserved for expansion]

SUBCHAPTER F. PENALTIES AND ENFORCEMENT

Sec. 1251.251. DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATE. (a) A violation of this chapter, a rule adopted under this chapter, or an order issued under this chapter is a ground for the denial, suspension, or revocation of a license and a ground for the imposition of an administrative penalty under Subchapter F, Chapter 51.

(b) The department may place on probation a person whose license is suspended. If a license suspension is probated, the department may require the person to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the department; or

(3) continue or review professional education until the person or the person's qualifying party attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

Sec. 1251.252. EMERGENCY ORDERS. (a) The department may issue an emergency order as necessary to enforce this chapter if the department determines that an emergency exists or formerly existed requiring immediate temporary action to protect the public health and safety. The order may be issued without notice and hearing or with notice and hearing as the department considers practicable under the circumstances.

(b) If an emergency order is issued under this section without a hearing, the department shall set the time and place for a hearing to affirm, modify, or set aside the emergency order.

Sec. 1251.253. CEASE AND DESIST ORDERS. The department may issue a cease and desist order regarding a violation of this chapter.

Sec. 1251.254. MUNICIPAL REGULATION. (a) A municipality may by ordinance adopt and enforce standards for roofing contractors that are consistent with the standards established under this chapter.

(b) A municipality may not impose a license or registration fee on a roofing contractor licensed under this chapter.

(c) The municipality may report a violation of this chapter

to the commission. If the municipality elects to report the violation, it shall do so not later than the 10th day after the date on which it discovers the violation.

(d) Conviction of an offense under the municipal ordinance is a ground for the denial, suspension, or revocation of a license under Section 1251.251.

Sec. 1251.255. ENFORCEMENT OF CONTRACTS. (a) A person who performs roofing contracting without holding the appropriate license may not collect a fee or otherwise enforce a contract for the roofing service performed. To enforce a contract for the performance of roofing contracting, the person performing the service must present proof that the person held a license at the time the contract was signed and the work was performed.

(b) The department director shall adopt rules relating to the manner in which proof may be presented under this section.

SECTION 2. (a) The Texas Department of Licensing and Regulation shall issue a roofing contracting license under Subchapter D, Chapter 1251, Occupations Code, as added by this Act, without an examination for the qualifying party, if the qualifying party:

(1) provides proof satisfactory to the department that the qualifying party:

(A) has been engaged in the business of roofing contracting during the five years preceding the date of the license application; or

(B) is, on the effective date of this Act, a certified roofing contractor in good standing as tested and approved by a roofing trade association recognized by the department;

(2) applies to the executive director of the Texas Department of Licensing and Regulation not later than July 31, 2004;

(3) pays the required fee; and

(4) submits a copy of the contractor's certification that has been attested to by the trade association.

(b) The class of a license issued under this section is based on the classification of certification that is currently held by the contractor and must correspond as follows:

(1) a certified commercial and residential roofing contractor shall receive a Class I license;

(2) a certified commercial roofing contractor shall receive a Class II license; and

(3) a certified residential roofing contractor shall receive a Class III license.

(c) A person who is issued a license under this section and the qualifying party for that license holder are subject to all other provisions of Chapter 1251, Occupations Code, as added by this Act, including provisions for the renewal of the roofing contractor license.

SECTION 3. In making the initial appointments to the Roofing Contractors Advisory Board, the presiding officer of the Texas Commission of Licensing and Regulation, with the approval of the commission, shall designate two members for terms expiring on February 1, 2005, two members for terms expiring on February 1, 2007, and two members for terms expiring on February 1, 2009. An initial board member appointed under Subdivision (1), Section 1251.103, Occupations Code, as added by this Act, is not required to hold a license until September 1, 2004, but must be eligible to hold a license under Chapter 1251, Occupations Code, as added by this Act, as of the time of the initial appointment.

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2003.

(b) Section 1251.151 and Subchapters E and F, Chapter 1251, Occupations Code, as added by this Act, take effect September 1, 2004.

* * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

SB SCR SJR (SR) HB HCR HJR 1176
By Senator Harris
(Author/Senate Sponsor)
5/9/03
(date)

We, your Committee on BUSINESS AND COMMERCE, to which was referred the attached measure,
have on May 6, 2003, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
() the caption remained the same as original measure
() the caption changed with adoption of the substitute

() do pass as substituted, and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes () no

A revised fiscal note was requested. ☒ yes () no

An actuarial analysis was requested. () yes () no

Considered by subcommittee. () yes () no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Troy Fraser, Chairman	✓			
Senator Kip Averitt, Vice-Chairman	✓			
Senator Ken Armbrister	✓			
Senator Kim Brimer			✓	
Senator Craig Estes			✓	
Senator Mike Jackson	✓			
Senator Eddie Lucio			✓	
Senator Leticia Van de Putte	✓			
Senator Tommy Williams	✓			
TOTAL VOTES	6	0	3	0

COMMITTEE ACTION

S260 Considered in public hearing
S270 Testimony taken

Barbara Henderson
COMMITTEE CLERK

Ty Fran
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

SB 1176

SENATE COMMITTEE REPORT

Business & Commerce

April 24, 2003 - 9:00AM

FOR: Floyd, Jim (Self), Austin, TX

AGAINST: Bigger, Tom (Home Town), Pflugerville, TX
Conner, Jon (J-Conn Roofing), Austin, TX
Gildner, Tex G.W. (Del-Tex Roofing), Manor, TX
Gulley, J.D. (Gulley's Roofing), Austin, TX
Hardison, Larry (Self), Austin, TX
Moran, Patrick (Austin Roof Contractors Association), Austin, TX
Pearson, Stacy (Self), Cedar Park, TX
Redunski, Joe (Roof Doctor), Cedar Park, TX
Simon, Daniel (Accent Roofing), Cedar Creek, TX
Thoman, Tom (Self), Austin, TX
Uribe, Hector (Hispanic Contractors Association and Texas Independent Roofing Contractors), Austin, TX

Registering, but not testifying:

FOR: Bryant, Vera (Self), Pflugerville, TX
Easterling, Al (AZ Tec Roofing and Siding), Austin, TX
Freeman, Harold (Texas Construction Association), Austin, TX
McCauley, Jennifer (Port Enterprises, Commercial Roofer, and RCAT), Manchaca, TX
McGlothlin, Mark (Self), Pflugerville, TX
Morin, Cindi (Roofing Contractors Association of Texas), Pflugerville, TX
Peterson, Harold (Roofing Contractors Association of Texas), Elgin, TX
Warndorf, Donna (Adams and Zottarelli), Austin, TX

AGAINST: Goldstein, Alvin (Self), Singer Island, FL
Pearson, Samantha (Self), Cedar Park, TX

ON: Kuntz, William (Texas Department of Licensing and Regulation), Austin, TX

BILL ANALYSIS

Senate Research Center
78R14822 MXM-F

C.S.S.B. 1176
By: Harris
Business & Commerce
5/8/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, there is no licensing process for roofing contractors to ensure regulation of the industry. The lack of regulation could enable some contractors to enter the state, perform work, and leave, limiting a customer's ability to contact the roofer in the event something goes wrong with the workmanship. C.S.S.B. 1176 establishes a framework for regulating roofing contractors, including mandating insurance coverage notification for roofing contractors and creating an advisory board.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Licensing and Regulation in SECTION 1 (Sections 1251.052, 1251.159, and 1251.160, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Licensing and Regulation director in SECTION 1 (Section 1251.255, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 7, Occupations Code, by adding Subtitle D, as follows:

SUBTITLE D. REGULATION OF CONSTRUCTION OF HOUSING AND BUILDINGS

CHAPTER 1251. ROOFING CONTRACTORS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1251.001. DEFINITIONS. Defines "advisory board," "commercial roofing," "commission," "department," "executive director," "qualifying party," "residential roofing," and "roofing contracting."

Sec. 1251.002. EXEMPTIONS. (a) Provides that this chapter does not apply to a person who meets certain criteria.

(b) Provides that this chapter does not restrict the practice of architecture or engineering by a person licensed in this state to practice that profession.

[Reserves Sections 1251.003-1251.050 for expansion.]

SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES

Sec. 1251.051. ADMINISTRATION; ENFORCEMENT; FEES. (a) Requires the Texas Department of Licensing and Regulation (TDLR) to administer this chapter.

(b) Authorizes TDLR to contract with another state agency or with a political subdivision of the state for the enforcement of this chapter and the rules adopted and orders issued under this chapter.

(c) Authorizes the Texas Commission of Licensing and Regulation (commission) to set fees in amounts reasonable and necessary to recover the costs of

administering this chapter.

Sec. 1251.052. RULES; STANDARDS. (a) Authorizes TDLR to adopt rules to enforce this chapter.

(b) Requires TDLR to adopt rules for the practice of roofing contracting consistent with this chapter. Requires the standards prescribed by rule to be substantially the same as the standards set forth in the roofing manufacturers' standard requirements.

Sec. 1251.053. FORMS. Requires TDLR to prescribe application forms for original and renewal licenses and to design the licenses.

Sec. 1251.054. ON-LINE DIRECTORY. (a) Requires TDLR to make available on-line a directory of persons licensed under this chapter.

(b) Prohibits TDLR from charging for access to the on-line directory.

Sec. 1251.055. CONSUMER COMPLAINT INVESTIGATION. (a) Requires TDLR to investigate consumer complaints filed with TDLR. Authorizes TDLR, if TDLR determines after investigation that a license holder has violated this chapter or a rule adopted under this chapter, to take appropriate action under Subchapter F.

(b) Requires TDLR to maintain a file on each written complaint filed with it. Sets forth the required file contents.

(c) Requires TDLR to provide to the person filing the complaint and to each person who is a subject of the complaint a written summary of its policies and procedures relating to complaint investigation and resolution and to make it available on the TDLR website.

(d) Requires TDLR, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

[Reserves Sections 1251.056-1251.100 for expansion.]

SUBCHAPTER C. ADVISORY BOARD

Sec. 1251.101. ADVISORY BOARD. (a) Provides that the Roofing Contractors Advisory Board is created to advise TDLR in certain areas.

(b) Requires the Roofing Contractors Advisory Board (advisory board) to advise the commission in setting fees.

Sec. 1251.102. COMPOSITION. (a) Provides that the advisory board is composed of six members appointed by the presiding officer of the commission (presiding officer), with the commission's approval.

(b) Requires the executive director of TDLR (executive director), or the executive director's designee, to serve as an ex officio, nonvoting member of the advisory board.

Sec. 1251.103. APPOINTMENT. Sets forth the makeup of the advisory board, which the presiding officer is required to appoint.

Sec. 1251.104. TERM. Provides that members of the advisory board hold office for staggered terms of six years, with two terms expiring on February 1 of each odd-

numbered year.

Sec. 1251.105. PRESIDING OFFICER. Requires the presiding officer, with the commission's approval, to designate a member of the advisory board to serve as presiding officer of the advisory board.

Sec. 1251.106. VACANCIES. Requires the presiding officer, with the commission's approval, if a vacancy occurs on the advisory board, to appoint a member who represents the same interests as the former member to serve the unexpired term.

Sec. 1251.107. MEETINGS. Requires the advisory board to meet at least once every six months and authorizes the advisory board to meet at other times at the call of the presiding officer and at a place in this state designated by the presiding officer.

Sec. 1251.108. VOTES. Provides that a decision of the advisory board is not effective unless it receives the affirmative vote of at least a majority of the members present.

Sec. 1251.109. COMPENSATION NOT ALLOWED. Provides that an advisory board member serves without compensation.

[Reserves Sections 1251.110-1251.150 for expansion.]

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 1251.151. LICENSE REQUIRED; CITATION. (a) Prohibits a person from performing roofing contracting without a license issued under this chapter, unless exempted under Section 1251.002.

(b) Requires a business entity that holds a license to have at least one qualifying party.

(c) Requires the license holder and the license holder's qualifying party to comply with the requirements of this chapter.

(d) Authorizes the commission or a municipal official to issue a citation to a person who performs roofing contracting without a license issued under this chapter.

Sec. 1251.152. SCOPE OF LICENSE. Provides that a license is valid throughout this state, and the license holder is not required to hold a municipal license or certificate to practice roofing contracting in any municipality in this state.

Sec. 1251.153. ROOFING CONTRACTOR LICENSE CLASSES. Sets forth the different classes of roofing contractor licenses.

Sec. 1251.154. APPLICATION; ELIGIBILITY. (a) Requires a license application to be made on a form prescribed by TDLR and to specify the class of license the applicant seeks.

(b) Requires, to be eligible for a license, the qualifying party to be at least 18 years old and to present to TDLR satisfactory evidence of at least three years of practical experience in roofing contracting in the previous five years.

(c) Sets forth items required to accompany the qualifying party's application.

Sec. 1251.155. EXAMINATIONS. (a) Requires TDLR to prescribe the method and content of examinations administered under this chapter and to set compliance requirements for the examinations. Requires the examination to be offered at least quarterly at various locations around the state as determined by TDLR.

(b) Requires TDLR to prescribe separate examinations for each class of license. Requires TDLR to prescribe separate examinations for commercial and residential services for a Class I license.

(c) Requires the qualifying party to pass the examination before a license may be issued.

(d) Authorizes the qualifying party to retake the examination.

Sec. 1251.156. ISSUANCE; TERM. (a) Requires TDLR to issue a license to a person who qualifies for a license under this chapter.

(b) Provides that a license is valid for one year from the date of issuance.

Sec. 1251.157. RENEWAL; CONTINUING EDUCATION. (a) Requires a qualifying party of the license holder to complete eight hours of continuing education annually and to provide proof of maintenance of the required insurance to renew a license.

(b) Requires TDLR to recognize, prepare, or administer a continuing education program for the qualifying parties of license holders. Authorizes TDLR to recognize a course offered by a trade association or other providers.

Sec. 1251.158. INSURANCE DISCLOSURE. Requires a license holder who does not maintain general liability insurance coverage for work performed under this chapter to disclose that fact, in writing on a TDLR-prescribed form, to each customer on a job. Requires the customer to sign the disclosure before the license holder is authorized to commence work for that customer.

Sec. 1251.159. USE, DISPLAY, AND ADVERTISEMENT OF LICENSE; RULES. Requires TDLR, with the advice of the advisory board, to adopt rules relating to the use, display, and advertisement of a license issued under this chapter.

Sec. 1251.160. DISPOSAL OF ROOFING MATERIALS; RULES. Requires TDLR to adopt rules that require a license holder to obtain a permit from an approved landfill to dispose of roofing materials. Requires the rules to include a requirement that a license holder maintain a record for each disposal of roofing materials by the license holder.

Sec. 1251.161. RECIPROCITY. Authorizes TDLR to waive any prerequisite, except an insurance requirement, to obtaining a license for an applicant who holds a license issued by another jurisdiction with which this state has a reciprocity agreement. Authorizes the commission to make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

Sec. 1251.162. TEMPORARY LICENSE. (a) Authorizes TDLR to issue a temporary license to a license holder for a principal of a license holder to serve as that license holder's qualifying party in certain circumstances.

(b) Requires the applicant for the temporary license to apply to TDLR on a form prescribed by TDLR and pay the required fee.

(c) Provides that the temporary license is valid for 60 days beyond the date of the next examination or six months, whichever is less. Requires the temporary license to be of the same class as the license being replaced.

[Reserves Sections 1251.163-1251.200 for expansion.]

SUBCHAPTER E. PROHIBITED ACTIVITIES

Sec. 1251.201. PROPER ROOFING INSTALLATION REQUIRED. (a) Defines

"mechanical integrity."

(b) Provides that the failure to provide proper installation consistent with the manufacturer's specifications or consistent with commonly accepted roofing practices, proper service, and mechanical integrity under this chapter violates this chapter.

Sec. 1251.202. MISREPRESENTATION OF ROOFING CONTRACTING SERVICES. Provides that an intentional or knowing misrepresentation of a necessary roofing contracting service, roofing contracting service to be provided, or a roofing contracting service that has been provided, violates this chapter.

Sec. 1251.203. CERTAIN ADVERTISING PROHIBITED. Prohibits a person from advertising to the public that the person is engaged in the business of roofing contracting unless the person holds a license issued under this chapter.

[Reserves Sections 1251.204-1251.250 for expansion.]

SUBCHAPTER F. PENALTIES AND ENFORCEMENT

Sec. 1251.251. DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATE. (a) Provides that a violation of this chapter, a rule adopted under this chapter, or an order issued under this chapter is a ground for the denial, suspension, or revocation of a license and a ground for the imposition of an administrative penalty under Subchapter F, Chapter 51 (Administrative Penalty).

(b) Authorizes TDLR to place on probation a person whose license is suspended. Sets forth what TDLR is authorized to require if a license suspension is probated.

Sec. 1251.252. EMERGENCY ORDERS. (a) Authorizes TDLR to issue an emergency order as necessary to enforce this chapter if TDLR determines that an emergency exists or formerly existed requiring immediate temporary action to protect the public health and safety. Authorizes the order to be issued without notice and hearing or with notice and hearing as TDLR considers practicable under the circumstances.

(b) Requires TDLR, if an emergency order is issued under this section without a hearing, to set the time and place for a hearing to affirm, modify, or set aside the emergency order.

Sec. 1251.253. CEASE AND DESIST ORDERS. Authorizes the commission to issue cease and desist orders regarding a violation of this chapter.

Sec. 1251.254. MUNICIPAL REGULATION. (a) Authorizes a municipality, by ordinance, to adopt and enforce standards for roofing contractors that are consistent with the standards established under this chapter.

(b) Prohibits a municipality from imposing a license or registration fee on a roofing contractor licensed under this chapter.

(c) Authorizes the municipality to report a violation of this chapter to the commission. Requires the municipality, if it elects to report the violation, to do so not later than the 10th day after the date on which it discovers the violation.

(d) Provides that conviction of an offense under the municipal ordinance is a ground for the denial, suspension, or revocation of a license under Section 1251.251.

Sec. 1251.255. ENFORCEMENT OF CONTRACTS. (a) Prohibits a person who performs roofing contracting without holding the appropriate license from collecting a fee

or otherwise enforcing a contract for the roofing service performed. Requires the person performing the service, to enforce a contract for the performance of roofing contracting, to present proof that the person held a license at the time the contract was signed and the work was performed.

(b) Requires the TDLR director to adopt rules relating to the manner in which proof may be presented under this section.

SECTION 2. (a) Requires TDLR to issue a roofing contracting license under Subchapter D, Chapter 1251, Occupations Code, as added by this Act, without an examination for the qualifying party under certain circumstances.

(b) Provides that the class of a license issued under this section is based on the classification of certification that is currently held by the contractor and requires it to correspond to certain classifications.

(c) Provides that a person who is issued a license under this section and the qualifying party for that license holder are subject to all other provisions of Chapter 1251, Occupations Code, as added by this Act, including provisions for the renewal of the roofing contractor license.

SECTION 3. Requires the presiding officer, with the commission's approval, in making the initial appointments to the Roofing Contractors Advisory Board, to designate two members for terms expiring on February 1, 2005, two members for terms expiring on February 1, 2007, and two members for terms expiring on February 1, 2009. Provides that an initial board member appointed under Section 1251.103(1), Occupations Code, as added by this Act, is not required to hold a license until September 1, 2004, but must be eligible to hold a license under Chapter 1251, Occupations Code, as added by this Act, as of the time of the initial appointment.

SECTION 4. (a) Effective date: September 1, 2003, except as provided by Subsection (b).

(b) Effective date: Section 1251.151 and Subchapters E and F, Chapter 1251, Occupations Code, as added by this Act, take effect September 1, 2004.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 9, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1176 by Harris (relating to the regulation of roofing contractors; providing penalties.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for SB1176, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from GENERAL REVENUE FUND 1	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2003
2004	\$89,960	(\$89,960)	1.0
2005	\$89,913	(\$89,913)	2.0
2006	\$142,866	(\$142,866)	2.8
2007	\$142,866	(\$142,866)	2.8
2008	\$142,866	(\$142,866)	2.8

Fiscal Analysis

The bill would require the Department of Licensing and Regulation to license roofing contractors and provides for criminal and administrative penalties. It would authorize rule making and a six member advisory board. It would also require the agency to provide examinations for each class of license, verify insurance requirements are met, recognize or approve continuing education classes required for renewal, provide an on-line directory of licensees, and investigate consumer complaints. The bill would authorize the agency to enter into contracts with other agencies to enforce the law and rules.

Applicants who have been certified by a trade association recognized by the agency could be grandfathered into licensure without examination if they apply by September 1, 2004, and applicants who

have not been certified by a trade association but have been working in the industry for the past five years would be licensed upon application, but must pass the appropriate exam(s) by September 1, 2005 to keep the license. Roofing contractors who collect less than \$250,000 in revenue per year would be exempt from licensure.

The bill would take effect September 1, 2003.

Methodology

The Department of Licensing and Regulation anticipates a regulated population of about 3,500 individuals with approximately 3,150 renewals and 350 new licensees each year. The agency would require \$36,960, along with 0.75 Administrative Technician II FTEs and 0.25 Accountant II FTE, each year to process the additional license population.

The agency anticipates that complaints would be received starting in fiscal year 2005 when the sections of the bill relating to standards and complaints take effect. The agency assumes there would be 150 complaints filed in fiscal year 2005 and 300 filed in each year thereafter. The agency assumes that 5 percent of complaints received would generate a hearing. In fiscal year 2005 the agency anticipates 8 complaints and in each year thereafter the agency anticipates 15 complaints. The agency would require \$52,953, along with 0.25 Investigator IV FTE, 0.5 Legal Assistant III FTE, and 0.25 Attorney IV FTE in fiscal year 2005; and \$105,906, along with 0.5 Investigator IV FTE, 0.25 Administrative Technician III FTE, 0.5 Legal Assistant III FTE, and 0.5 Attorney IV FTE in each year thereafter to process the additional complaints.

The agency would be required to develop two exams and translate each into Spanish for a total cost of \$53,000 in FY 2004.

It is assumed the agency would adjust fees to offset any costs associated with implementing the provisions of the bill.

Technology

The agency would require additional funding for computers and related equipment for the additional FTEs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, KG, JRO, RT, RB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 23, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1176 by Harris (Relating to the regulation of roofing contractors; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1176. As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2003
2004	\$116,360	(\$116,360)	2.0
2005	\$154,137	(\$154,137)	3.8
2006	\$244,914	(\$244,914)	5.5
2007	\$244,914	(\$244,914)	5.5
2008	\$244,914	(\$244,914)	5.5

Fiscal Analysis

The bill would require the Department of Licensing and Regulation to license roofing contractors and provides for criminal and administrative penalties. It would authorize rule making and a six member advisory board. It would also require the agency to provide examinations for each class of license, verify insurance requirements are met, recognize or approve continuing education classes required for renewal, provide an on-line directory of licensees, and investigate consumer complaints. The bill would authorize the agency to enter into contracts with other agencies to enforce the law and rules.

Applicants who have been certified by a trade association recognized by the agency could be grandfathered into licensure without examination if they apply by September 1, 2004, and applicants who

have not been certified by a trade association but have been working in the industry for the past five years would be licensed upon application, but must pass the appropriate exam(s) by September 1, 2005 to keep the license.

The bill would take effect September 1, 2003.

Methodology

The Department of Licensing and Regulation anticipates a regulated population of about 6,000 individuals with approximately 5,400 renewals and 600 new licensees each year. The agency would require \$63,360, along with 1.5 Administrative Technician II FTEs and 0.5 Accountant II FTE, each year to process the additional license population.

The agency anticipates that complaints would be received starting in fiscal year 2005 when the sections of the bill relating to standards and complaints take effect. The agency assumes there would be 300 complaints filed in fiscal year 2005 and 600 filed in each year thereafter. The agency assumes that 5 percent of complaints received would generate a hearing. In fiscal year 2005 the agency anticipates 15 complaints and in each year thereafter the agency anticipates 30 complaints. The agency would require \$90,777, along with 0.5 Investigator IV FTE, 0.25 Administrative Technician III FTE, 0.5 Legal Assistant III FTE, and 0.5 Attorney IV FTE in fiscal year 2005; and \$181,554, along with 1 Investigator IV FTE, 0.5 Administrative Technician III FTE, 1 Legal Assistant III FTE, and 1 Attorney IV FTE in each year thereafter to process the additional complaints.

The agency would be required to develop two exams and translate each into Spanish for a total cost of \$53,000 in FY 2004.

It is assumed the agency would adjust fees to offset any costs associated with implementing the provisions of the bill.

Technology

The agency would require additional funding for computers and related equipment for the additional FTEs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, KG, JRO, RT, RB

ADOPTED *as amended*

MAY 16 2003

Atty. Gen.
Secretary of the Senate

By: Harris, Armbrister, Lucio

S.B. No. 1176

Substitute the following for S.B. No. 1176:

By: 

C.S.S.B. No. 1176

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of roofing contractors; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 7, Occupations Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. REGULATION OF CONSTRUCTION OF HOUSING AND BUILDINGS

CHAPTER 1251. ROOFING CONTRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1251.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Roofing Contractors Advisory Board.

(2) "Commercial roofing" means the exterior roof, cover, or skin of the roof assembly consisting of membrane, metal panels, sheets, shingles, tiles, slate, or other materials on any building or structure other than residential buildings or structures.

(3) "Commission" means the Texas Commission of Licensing and Regulation.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Executive director" means the executive director of the department.

(6) "Qualifying party" means an individual who

1 possesses all the necessary qualifications for a license and who is
2 a principal of a business entity licensed under this chapter.

3 (7) "Residential roofing" means any material applied
4 to the exterior roof framing, whether of wood or steel, on a
5 single-family home, duplex, triplex, or fourplex.

6 (8) "Roofing contracting" means performing or
7 offering to perform the installation, construction, maintenance,
8 service, repair, alteration, or modification of a roofing product
9 or equipment in roofs.

10 Sec. 1251.002. EXEMPTIONS. (a) This chapter does not
11 apply to a person:

12 (1) while the person performs roofing contracting:

13 (A) on new residential construction of a
14 single-family home, duplex, triplex, or fourplex;

15 (B) under the direct supervision of an individual
16 license holder;

17 (C) on property owned by the person and used as
18 the person's residence;

19 (D) on a dwelling owned by a member of the
20 person's family;

21 (E) on property that is primarily for
22 agricultural use; or

23 (F) on property that is a portable building or a
24 garage that is not connected to a dwelling;

25 (2) who is registered and regulated as a manufacturer,
26 retailer, or installer under Chapter 1201 while the person performs
27 roofing contracting in the building or installation of manufactured

2/3

1 homes or in providing retailer or manufacturer warranty services
2 free of charge to the consumer;

3 (3) who is a maintenance engineer while the person
4 performs roofing contracting as an employee of the property owner,
5 the property lessee, or the management company managing the
6 property where the roofing contracting is being performed;

7 (4) that qualifies for an exemption from federal
8 income taxation under Section 501(a) of the Internal Revenue Code
9 of 1986 by being listed as an exempt organization in Section
10 501(c)(3) of that code; or

F.A. #2
(1) 11 (5) who collects less than ^{150,000} ~~\$250,000~~ in ^{profits per year} ~~revenues~~ from
12 commercial or residential roofing in ~~one calendar year~~ as
13 determined by the department.

14 (b) This chapter does not restrict the practice of
15 architecture or engineering by a person licensed in this state to
16 practice that profession.

17 [Sections 1251.003-1251.050 reserved for expansion]

18 SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES

19 Sec. 1251.051. ADMINISTRATION; ENFORCEMENT; FEES.

20 (a) The department shall administer this chapter.

21 (b) The department may contract with another state agency or
22 with a political subdivision of the state for the enforcement of
23 this chapter and the rules adopted and orders issued under this
24 chapter.

25 (c) The commission may set fees in amounts reasonable and
26 necessary to recover the costs of administering this chapter,
27 including fees for administration of continuing education courses,

examinations, and issuance of licenses, including renewals and temporary licenses.

Sec. 1251.052. RULES; STANDARDS. (a) The department may adopt rules to enforce this chapter.

(b) The department shall adopt rules for the practice of roofing contracting consistent with this chapter. The standards prescribed by rule must be substantially the same as the standards set forth in the roofing manufacturers' standard requirements.

Sec. 1251.053. FORMS. The department shall prescribe application forms for original and renewal licenses and shall design the licenses.

Sec. 1251.054. ON-LINE DIRECTORY. (a) The department shall make available on-line a directory of persons licensed under this chapter.

(b) The department may not charge for access to the on-line directory.

Sec. 1251.055. CONSUMER COMPLAINT INVESTIGATION. (a) The department shall investigate consumer complaints filed with the department. If the department determines after investigation that a license holder has violated this chapter or a rule adopted under this chapter, the department may take appropriate action under Subchapter F.

(b) The department shall maintain a file on each written complaint filed with the department. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

- 1 (3) the subject matter of the complaint;
2 (4) the name of each person contacted in relation to
3 the complaint;
4 (5) a summary of the results of the review or
5 investigation of the complaint; and
6 (6) an explanation of the reason the file was closed,
7 if the department closed the file without taking action other than
8 to investigate the complaint.

9 (c) The department shall provide to the person filing the
10 complaint and to each person who is a subject of the complaint a
11 written summary of the department's policies and procedures
12 relating to complaint investigation and resolution. The department
13 shall make the summary available on the department's Internet site.

14 (d) The department, at least quarterly until final
15 disposition of the complaint, shall notify the person filing the
16 complaint and each person who is a subject of the complaint of the
17 status of the investigation unless the notice would jeopardize an
18 undercover investigation.

19 [Sections 1251.056-1251.100 reserved for expansion]

20 SUBCHAPTER C. ADVISORY BOARD

21 Sec. 1251.101. ADVISORY BOARD. (a) The Roofing
22 Contractors Advisory Board is created to advise the department in:

- 23 (1) adopting rules;
24 (2) enforcing and administering this chapter; and
25 (3) determining the content of examinations.

26 (b) The advisory board shall advise the commission in
27 setting fees. / 5/6

1 Sec. 1251.102. COMPOSITION. (a) The advisory board is
2 composed of six members appointed by the presiding officer of the
3 commission, with the commission's approval.

4 (b) The executive director or the executive director's
5 designee shall serve as an ex officio, nonvoting member of the
6 advisory board.

Insert
FA. # 27
(3)
7 Sec. 1251.103. APPOINTMENT. The presiding officer of the
8 commission shall appoint the advisory board members as follows:

9 (1) three members must be full-time licensed roofing
10 contractors with at least 10 years' experience in roofing
11 contracting and must hold the following licenses:

12 (A) one member must hold a commercial license;

13 (B) one member must hold a residential license;

14 and

15 (C) one member must hold a commercial and a
16 residential license; and

17 (2) three members must be public representatives.

18 Sec. 1251.104. TERM. Members of the advisory board hold
19 office for staggered terms of six years, with two terms expiring on
20 February 1 of each odd-numbered year.

21 Sec. 1251.105. PRESIDING OFFICER. The presiding officer of
22 the commission, with the commission's approval, shall designate a
23 member of the advisory board to serve as presiding officer of the
24 advisory board. 6/7

25 Sec. 1251.106. VACANCIES. If a vacancy occurs on the
26 advisory board, the presiding officer of the commission, with the
27 commission's approval, shall appoint a member who represents the

1 same interests as the former member to serve the unexpired term.

2 Sec. 1251.107. MEETINGS. The advisory board shall meet at
3 least once every six months and may meet at other times at the call
4 of the presiding officer of the commission.

5 Sec. 1251.108. VOTES. A decision of the advisory board is
6 not effective unless it receives the affirmative vote of at least a
7 majority of the members present.

8 Sec. 1251.109. COMPENSATION NOT ALLOWED. An advisory board
9 member serves without compensation.

10 [Sections 1251.110-1251.150 reserved for expansion]

11 SUBCHAPTER D. LICENSE REQUIREMENTS

12 Sec. 1251.151. LICENSE REQUIRED; CITATION. (a) Unless
13 exempted under Section 1251.002, a person may not perform roofing
14 contracting without a license issued under this chapter.

15 (b) A business entity that holds a license must have at
16 least one qualifying party.

17 (c) The license holder and the license holder's qualifying
18 party shall comply with the requirements of this chapter.

19 (d) The commission or a municipal official may issue a
20 citation to a person who performs roofing contracting without a
21 license issued under this chapter.

22 Sec. 1251.152. SCOPE OF LICENSE. A license is valid
23 throughout this state, and the license holder is not required to
24 hold a municipal license or certificate to practice roofing
25 contracting in any municipality in this state.

26 Sec. 1251.153. ROOFING CONTRACTOR LICENSE CLASSES. Roofing
27 contractor licenses are as follows: /

1 (1) a Class I license entitles the license holder to
2 perform commercial and residential roofing services;

3 (2) a Class II license entitles the license holder to
4 perform only commercial roofing services; and

5 (3) a Class III license entitles the license holder to
6 perform only residential roofing services.

7 Sec. 1251.154. APPLICATION; ELIGIBILITY. (a) A license
8 application must be made on a form prescribed by the department and
9 must specify the class of license the applicant seeks.

10 (b) To be eligible for a license, the qualifying party must
11 be at least 18 years old and must present to the department
12 satisfactory evidence of at least three years of practical
13 experience in roofing contracting in the previous five years.

14 (c) The qualifying party's application must be accompanied
15 by:

16 (1) a statement of the applicant's practical
17 experience;

18 (2) evidence of the insurance coverage required under
19 this chapter;

20 (3) the application fee; and

21 (4) the examination fee.

22 Sec. 1251.155. EXAMINATIONS. (a) The department shall
23 prescribe the method and content of examinations administered under
24 this chapter and shall set compliance requirements for the
25 examinations. The examination shall be offered at least quarterly
26 at various locations around the state as determined by the
27 department.

1 (b) The department shall prescribe separate examinations
2 for each class of license. For a Class I license, the department
3 shall prescribe separate examinations for commercial and
4 residential services.

5 (c) The qualifying party must pass the examination before a
6 license may be issued.

7 (d) The qualifying party may retake the examination.

8 Sec. 1251.156. ISSUANCE; TERM. (a) The department shall
9 issue a license to a person who qualifies for a license under this
10 chapter.

11 (b) A license is valid for one year from the date of
12 issuance.

13 Sec. 1251.157. RENEWAL; CONTINUING EDUCATION. (a) To
14 renew a license, a qualifying party of the license holder must:

15 (1) complete eight hours of continuing education
16 annually; and

17 (2) provide proof of maintenance of the insurance
18 required by this chapter.

19 (b) The department shall recognize, prepare, or administer
20 a continuing education program for the qualifying parties of
21 license holders. The department may recognize a course offered by a
22 trade association or other providers.

insert
F.A.#23 → 23 Sec. 1251.158. INSURANCE DISCLOSURE. A license holder who
24 does not maintain general liability insurance coverage for work
25 performed under this chapter must disclose that fact to each
26 customer on a job in writing on a form prescribed by the department.
27 The customer must sign the disclosure before the license holder may

1 ~~commence work for that customer.~~

2 Sec. 1251.159. USE, DISPLAY, AND ADVERTISEMENT OF LICENSE;
3 RULES. With the advice of the advisory board, the department shall
4 adopt rules relating to the use, display, and advertisement of a
5 license issued under this chapter.

6 Sec. 1251.160. DISPOSAL OF ROOFING MATERIALS; RULES. The
7 department shall adopt rules that require a license holder to
8 obtain a permit from an approved landfill to dispose of roofing
9 materials. The rules must include a requirement that a license
10 holder maintain a record for each disposal of roofing materials by
11 the license holder.

12 Sec. 1251.161. RECIPROCITY. The department may waive any
13 prerequisite, except an insurance requirement, to obtaining a
14 license for an applicant who holds a license issued by another
15 jurisdiction with which this state has a reciprocity agreement.
16 The commission may make an agreement, subject to the approval of the /10/11
17 governor, with another state to allow for licensing by reciprocity.

18 Sec. 1251.162. TEMPORARY LICENSE. (a) The department may
19 issue a temporary license to a license holder for a principal of a
20 license holder to serve as that license holder's qualifying party
21 if the original qualifying party for the license holder:

22 (1) becomes incapacitated and unable to serve in the
23 normal capacity of principal of the license holder; or

24 (2) is no longer available due to the dissolution of a
25 partnership, corporation, or other legal entity.

26 (b) The applicant for the temporary license shall apply to
27 the department on a form prescribed by the department and pay the

1 required fee.

2 (c) The temporary license is valid for 60 days beyond the
3 date of the next examination or six months, whichever is less. The
4 temporary license must be of the same class as the license being
5 replaced.

6 [Sections 1251.163-1251.200 reserved for expansion]

7 SUBCHAPTER E. PROHIBITED ACTIVITIES

8 Sec. 1251.201. PROPER ROOFING INSTALLATION REQUIRED.

9 (a) In this section, "mechanical integrity" means physical
10 installation of products, systems, or equipment in accordance with
11 their intended purpose and according to industry standards at least
12 as strict as the roofing manufacturers' specifications.

13 (b) The failure to provide proper installation consistent
14 with the manufacturer's specifications or consistent with commonly
15 accepted roofing practices, proper service, and mechanical
16 integrity under this chapter violates this chapter. /

17 Sec. 1251.202. MISREPRESENTATION OF ROOFING CONTRACTING
18 SERVICES. An intentional or knowing misrepresentation of a
19 necessary roofing contracting service, roofing contracting service
20 to be provided, or a roofing contracting service that has been
21 provided, violates this chapter.

22 Sec. 1251.203. CERTAIN ADVERTISING PROHIBITED. A person
23 may not advertise to the public that the person is engaged in the
24 business of roofing contracting unless the person holds a license
25 issued under this chapter.

1 [Sections 1251.204-1251.250 reserved for expansion]

2 SUBCHAPTER F. PENALTIES AND ENFORCEMENT

3 Sec. 1251.251. DENIAL, SUSPENSION, OR REVOCATION OF
4 CERTIFICATE. (a) A violation of this chapter, a rule adopted
5 under this chapter, or an order issued under this chapter is a
6 ground for the denial, suspension, or revocation of a license and a
7 ground for the imposition of an administrative penalty under
8 Subchapter F, Chapter 51.

9 (b) The department may place on probation a person whose
10 license is suspended. If a license suspension is probated, the
11 department may require the person to:

12 (1) report regularly to the department on matters that
13 are the basis of the probation;

14 (2) limit practice to the areas prescribed by the
15 department; or

16 (3) continue or review professional education until
17 the person or the person's qualifying party attains a degree of
18 skill satisfactory to the department in those areas that are the / 12/13
19 basis of the probation.

20 Sec. 1251.252. EMERGENCY ORDERS. (a) The department may
21 issue an emergency order as necessary to enforce this chapter if the
22 department determines that an emergency exists or formerly existed
23 requiring immediate temporary action to protect the public health
24 and safety. The order may be issued without notice and hearing or
25 with notice and hearing as the department considers practicable
26 under the circumstances.

27 (b) If an emergency order is issued under this section

1 without a hearing, the department shall set the time and place for a
2 hearing to affirm, modify, or set aside the emergency order.

3 Sec. 1251.253. CEASE AND DESIST ORDERS. The department may
4 issue a cease and desist order regarding a violation of this
5 chapter.

6 Sec. 1251.254. MUNICIPAL REGULATION. (a) A municipality
7 may by ordinance adopt and enforce standards for roofing
8 contractors that are consistent with the standards established
9 under this chapter.

10 (b) A municipality may not impose a license or registration
11 fee on a roofing contractor licensed under this chapter.

12 (c) The municipality may report a violation of this chapter
13 to the commission. If the municipality elects to report the
14 violation, it shall do so not later than the 10th day after the date
15 on which it discovers the violation.

16 (d) Conviction of an offense under the municipal ordinance
17 is a ground for the denial, suspension, or revocation of a license
18 under Section 1251.251. /

19 Sec. 1251.255. ENFORCEMENT OF CONTRACTS. (a) A person who
20 performs roofing contracting without holding the appropriate
21 license may not collect a fee or otherwise enforce a contract for
22 the roofing service performed. To enforce a contract for the
23 performance of roofing contracting, the person performing the
24 service must present proof that the person held a license at the
25 time the contract was signed and the work was performed.

26 (b) The department director shall adopt rules relating to
27 the manner in which proof may be presented under this section.

13/14

Insec + F.A.# 2(4)

C.S.S.B. No. 1176

SECTION 2: ~~(a) The Texas Department of Licensing and~~ 1/13/14

Regulation shall issue a roofing contracting license under
Subchapter D, Chapter 1251, Occupations Code, as added by this Act,
without an examination for the qualifying party, if the qualifying
party:

(1) provides proof satisfactory to the department that
the qualifying party:

(A) has been engaged in the business of roofing
contracting during the five years preceding the date of the license
application; or

(B) is, on the effective date of this Act, a
certified roofing contractor in good standing as tested and
approved by a roofing trade association recognized by the
department;

(2) applies to the executive director of the Texas
Department of Licensing and Regulation not later than July 31,
2004;

(3) pays the required fee; and

(4) submits a copy of the contractor's certification
that has been attested to by the trade association.

(b) The class of a license issued under this section is
based on the classification of certification that is currently held
by the contractor and must correspond as follows:

(1) a certified commercial and residential roofing
contractor shall receive a Class I license;

(2) a certified commercial roofing contractor shall
receive a Class II license; and

1 (3) a certified residential roofing contractor shall 14/15
2 receive a Class III license.

3 (c) A person who is issued a license under this section and
4 the qualifying party for that license holder are subject to all
5 other provisions of Chapter 1251, Occupations Code, as added by
6 this Act, including provisions for the renewal of the roofing
7 contractor license.

8 SECTION 3. In making the initial appointments to the
9 Roofing Contractors Advisory Board, the presiding officer of the
10 Texas Commission of Licensing and Regulation, with the approval of
11 the commission, shall designate two members for terms expiring on
12 February 1, 2005, two members for terms expiring on February 1,
13 2007, and two members for terms expiring on February 1, 2009. An
14 initial board member appointed under Subdivision (1), ^{Subsection (a),} Section
15 1251.103, Occupations Code, as added by this Act, is not required to
16 hold a license until September 1, 2004, but must be eligible to hold
17 a license under Chapter 1251, Occupations Code, as added by this
18 Act, as of the time of the initial appointment.

19 SECTION 4. (a) Except as provided by Subsection (b) of this
20 section, this Act takes effect September 1, 2003.

21 (b) Section 1251.151 and Subchapters E and F, Chapter 1251,
22 Occupations Code, as added by this Act, take effect September 1,
23 2004.

FLOOR AMENDMENT NO. 1

BY: MADA

1 Amend C.S.S.B. No. 1176 in SECTION 1 of the bill, by striking
2 added Section 1251.158, Occupations Code (senate committee
3 printing, page 4, lines 43-48), and substituting a new Section
4 1251.158:

5 Sec. 1251.158. CONTRACT FORMS. (a) The department shall
6 prescribe two forms for use in roofing contracts:

7 (1) one form that discloses that the license holder does
8 not maintain general liability insurance coverage for work
9 performed under this chapter; and

10 (2) one form that discloses that the license holder does
11 maintain general liability insurance coverage for work performed
12 under this chapter.

13 (b) Each form must contain other appropriate contractual
14 information as determined by the department.

15 (c) Before commencing roofing contracting work, the license
16 holder must execute a contract with the customer on the appropriate
17 form.

ADOPTED

MAY 16 2003

Letty Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Harris*
Shepleigh

Amend C.S.S.B. 1176 (senate committee printing) as follows:

✓(1) In SECTION 1 of the bill, strike added Section 1251.002(a)(5), Occupations Code (page 2, lines ³ 7-9), and substitute:

✓ ⁵ _{marked on bill} (5) who collects less than \$150,000 in profits per year from commercial or residential roofing as determined by the department.

✓ (2) In SECTION 1 of the bill, in added Section 1251.051, Occupations Code (page 2, between lines ⁴ 25 and ^{2 3} 26), insert a new Subsection (d):

✓ _{F.A.#2 (2) at p. 4, l. 3} (d) The total fees charged to a license holder under this section may not exceed \$200 per year.

✓ (3) In SECTION 1 of the bill, strike added Section 1251.103, Occupations Code (page ⁶ 3, lines ^{7 17} 15-25), and substitute a new Section 1251.103:

✓ _{F.A.#2 (3) at p. 6, l. 1} Sec. 1251.103. APPOINTMENT. (a) The presiding officer of the commission shall appoint the advisory board members as follows:

(1) three members must be full-time licensed roofing contractors with at least 10 years' experience in roofing contracting and must hold the following licenses:

(A) one member must hold a commercial license;

(B) one member must hold a residential license;

and

(C) one member must hold a commercial and a residential license; and

(2) three members must be public representatives.

(b) One member appointed under Subsection (a)(1) must be from a historically underutilized business.

(4) Strike SECTION 2 of the bill (page 6, lines 16-49) and _{p. 14, l. 1 - p. 57, l. 7}

Insert
F.A.#2
(4)
at
p.14, l.1

1 substitute a new SECTION 2 as follows:

2 SECTION 2. (a) The Texas Department of Licensing and
3 Regulation shall issue a roofing contractor license under
4 Subchapter D, Chapter 1251, Occupations Code, as added by this Act,
5 without an examination for the qualifying party if the qualifying
6 party:

7 (1) provides proof satisfactory to the department, on
8 or before September 1, 2004, that the qualifying party:

9 (A) has been engaged in the business of roofing
10 contracting during the five years preceding the date of the license
11 application; or

12 (B) is, as of the date of the application, a
13 certified roofing contractor in good standing as tested and
14 approved by a roofing trade association recognized by the
15 department, as shown by a copy of the contractor's certification
16 attested to by the trade association;

17 (2) applies to the executive director of the Texas
18 Department of Licensing and Regulation not later than July 31,
19 2004; and

20 (3) pays the required fee.

21 (b) A person who is issued a license under this section and
22 the qualifying party for that license holder are subject to all
23 other provisions of Chapter 1251, Occupations Code, as added by
24 this Act, including provisions for the renewal of the roofing
25 contractor license.

Engrossed May 16, 2003
Mardi Clement
Engrossing Clerk

By: Harris, Armbrister, Lucio

S.B. No. 1176

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of roofing contractors; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 7, Occupations Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. REGULATION OF CONSTRUCTION OF HOUSING AND BUILDINGS

CHAPTER 1251. ROOFING CONTRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1251.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Roofing Contractors Advisory Board.

(2) "Commercial roofing" means the exterior roof, cover, or skin of the roof assembly consisting of membrane, metal panels, sheets, shingles, tiles, slate, or other materials on any building or structure other than residential buildings or structures.

(3) "Commission" means the Texas Commission of Licensing and Regulation.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Executive director" means the executive director of the department.

(6) "Qualifying party" means an individual who

1 possesses all the necessary qualifications for a license and who is
2 a principal of a business entity licensed under this chapter.

3 (7) "Residential roofing" means any material applied
4 to the exterior roof framing, whether of wood or steel, on a
5 single-family home, duplex, triplex, or fourplex.

6 (8) "Roofing contracting" means performing or
7 offering to perform the installation, construction, maintenance,
8 service, repair, alteration, or modification of a roofing product
9 or equipment in roofs.

10 Sec. 1251.002. EXEMPTIONS. (a) This chapter does not
11 apply to a person:

12 (1) while the person performs roofing contracting:

13 (A) on new residential construction of a
14 single-family home, duplex, triplex, or fourplex;

15 (B) under the direct supervision of an individual
16 license holder;

17 (C) on property owned by the person and used as
18 the person's residence;

19 (D) on a dwelling owned by a member of the
20 person's family;

21 (E) on property that is primarily for
22 agricultural use; or

23 (F) on property that is a portable building or a
24 garage that is not connected to a dwelling;

25 (2) who is registered and regulated as a manufacturer,
26 retailer, or installer under Chapter 1201 while the person performs
27 roofing contracting in the building or installation of manufactured

1 homes or in providing retailer or manufacturer warranty services
2 free of charge to the consumer;

3 (3) who is a maintenance engineer while the person
4 performs roofing contracting as an employee of the property owner,
5 the property lessee, or the management company managing the
6 property where the roofing contracting is being performed;

7 (4) that qualifies for an exemption from federal
8 income taxation under Section 501(a) of the Internal Revenue Code
9 of 1986 by being listed as an exempt organization in Section
10 501(c)(3) of that code; or

11 (5) who collects less than \$150,000 in profits per
12 year from commercial or residential roofing as determined by the
13 department.

14 (b) This chapter does not restrict the practice of
15 architecture or engineering by a person licensed in this state to
16 practice that profession.

17 [Sections 1251.003-1251.050 reserved for expansion]

18 SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES

19 Sec. 1251.051. ADMINISTRATION; ENFORCEMENT; FEES. (a) The
20 department shall administer this chapter.

21 (b) The department may contract with another state agency or
22 with a political subdivision of the state for the enforcement of
23 this chapter and the rules adopted and orders issued under this
24 chapter.

25 (c) The commission may set fees in amounts reasonable and
26 necessary to recover the costs of administering this chapter,
27 including fees for administration of continuing education courses,

1 examinations, and issuance of licenses, including renewals and
2 temporary licenses.

3 (d) The total fees charged to a license holder under this
4 section may not exceed \$200 per year.

5 Sec. 1251.052. RULES; STANDARDS. (a) The department may
6 adopt rules to enforce this chapter.

7 (b) The department shall adopt rules for the practice of
8 roofing contracting consistent with this chapter. The standards
9 prescribed by rule must be substantially the same as the standards
10 set forth in the roofing manufacturers' standard requirements.

11 Sec. 1251.053. FORMS. The department shall prescribe
12 application forms for original and renewal licenses and shall
13 design the licenses.

14 Sec. 1251.054. ON-LINE DIRECTORY. (a) The department
15 shall make available on-line a directory of persons licensed under
16 this chapter.

17 (b) The department may not charge for access to the on-line
18 directory.

19 Sec. 1251.055. CONSUMER COMPLAINT INVESTIGATION. (a) The
20 department shall investigate consumer complaints filed with the
21 department. If the department determines after investigation that
22 a license holder has violated this chapter or a rule adopted under
23 this chapter, the department may take appropriate action under
24 Subchapter F.

25 (b) The department shall maintain a file on each written
26 complaint filed with the department. The file must include:

27 (1) the name of the person who filed the complaint;

1 (2) the date the complaint is received by the
2 department;

3 (3) the subject matter of the complaint;

4 (4) the name of each person contacted in relation to
5 the complaint;

6 (5) a summary of the results of the review or
7 investigation of the complaint; and

8 (6) an explanation of the reason the file was closed,
9 if the department closed the file without taking action other than
10 to investigate the complaint.

11 (c) The department shall provide to the person filing the
12 complaint and to each person who is a subject of the complaint a
13 written summary of the department's policies and procedures
14 relating to complaint investigation and resolution. The department
15 shall make the summary available on the department's Internet site.

16 (d) The department, at least quarterly until final
17 disposition of the complaint, shall notify the person filing the
18 complaint and each person who is a subject of the complaint of the
19 status of the investigation unless the notice would jeopardize an
20 undercover investigation.

21 [Sections 1251.056-1251.100 reserved for expansion]

22 SUBCHAPTER C. ADVISORY BOARD

23 Sec. 1251.101. ADVISORY BOARD. (a) The Roofing
24 Contractors Advisory Board is created to advise the department in:

25 (1) adopting rules;

26 (2) enforcing and administering this chapter; and

27 (3) determining the content of examinations.

1 (b) The advisory board shall advise the commission in
2 setting fees.

3 Sec. 1251.102. COMPOSITION. (a) The advisory board is
4 composed of six members appointed by the presiding officer of the
5 commission, with the commission's approval.

6 (b) The executive director or the executive director's
7 designee shall serve as an ex officio, nonvoting member of the
8 advisory board.

9 Sec. 1251.103. APPOINTMENT. (a) The presiding officer of
10 the commission shall appoint the advisory board members as follows:

11 (1) three members must be full-time licensed roofing
12 contractors with at least 10 years' experience in roofing
13 contracting and must hold the following licenses:

14 (A) one member must hold a commercial license;

15 (B) one member must hold a residential license;

16 and

17 (C) one member must hold a commercial and a
18 residential license; and

19 (2) three members must be public representatives.

20 (b) One member appointed under Subsection (a)(1) must be
21 from a historically underutilized business.

22 Sec. 1251.104. TERM. Members of the advisory board hold
23 office for staggered terms of six years, with two terms expiring on
24 February 1 of each odd-numbered year.

25 Sec. 1251.105. PRESIDING OFFICER. The presiding officer of
26 the commission, with the commission's approval, shall designate a
27 member of the advisory board to serve as presiding officer of the

1 advisory board.

2 Sec. 1251.106. VACANCIES. If a vacancy occurs on the
3 advisory board, the presiding officer of the commission, with the
4 commission's approval, shall appoint a member who represents the
5 same interests as the former member to serve the unexpired term.

6 Sec. 1251.107. MEETINGS. The advisory board shall meet at
7 least once every six months and may meet at other times at the call
8 of the presiding officer of the commission.

9 Sec. 1251.108. VOTES. A decision of the advisory board is
10 not effective unless it receives the affirmative vote of at least a
11 majority of the members present.

12 Sec. 1251.109. COMPENSATION NOT ALLOWED. An advisory board
13 member serves without compensation.

14 [Sections 1251.110-1251.150 reserved for expansion]

15 SUBCHAPTER D. LICENSE REQUIREMENTS

16 Sec. 1251.151. LICENSE REQUIRED; CITATION. (a) Unless
17 exempted under Section 1251.002, a person may not perform roofing
18 contracting without a license issued under this chapter.

19 (b) A business entity that holds a license must have at
20 least one qualifying party.

21 (c) The license holder and the license holder's qualifying
22 party shall comply with the requirements of this chapter.

23 (d) The commission or a municipal official may issue a
24 citation to a person who performs roofing contracting without a
25 license issued under this chapter.

26 Sec. 1251.152. SCOPE OF LICENSE. A license is valid
27 throughout this state, and the license holder is not required to

1 hold a municipal license or certificate to practice roofing
2 contracting in any municipality in this state.

3 Sec. 1251.153. ROOFING CONTRACTOR LICENSE CLASSES. Roofing
4 contractor licenses are as follows:

5 (1) a Class I license entitles the license holder to
6 perform commercial and residential roofing services;

7 (2) a Class II license entitles the license holder to
8 perform only commercial roofing services; and

9 (3) a Class III license entitles the license holder to
10 perform only residential roofing services.

11 Sec. 1251.154. APPLICATION; ELIGIBILITY. (a) A license
12 application must be made on a form prescribed by the department and
13 must specify the class of license the applicant seeks.

14 (b) To be eligible for a license, the qualifying party must
15 be at least 18 years old and must present to the department
16 satisfactory evidence of at least three years of practical
17 experience in roofing contracting in the previous five years.

18 (c) The qualifying party's application must be accompanied
19 by:

20 (1) a statement of the applicant's practical
21 experience;

22 (2) evidence of the insurance coverage required under
23 this chapter;

24 (3) the application fee; and

25 (4) the examination fee.

26 Sec. 1251.155. EXAMINATIONS. (a) The department shall
27 prescribe the method and content of examinations administered under

1 this chapter and shall set compliance requirements for the
2 examinations. The examination shall be offered at least quarterly
3 at various locations around the state as determined by the
4 department.

5 (b) The department shall prescribe separate examinations
6 for each class of license. For a Class I license, the department
7 shall prescribe separate examinations for commercial and
8 residential services.

9 (c) The qualifying party must pass the examination before a
10 license may be issued.

11 (d) The qualifying party may retake the examination.

12 Sec. 1251.156. ISSUANCE; TERM. (a) The department shall
13 issue a license to a person who qualifies for a license under this
14 chapter.

15 (b) A license is valid for one year from the date of
16 issuance.

17 Sec. 1251.157. RENEWAL; CONTINUING EDUCATION. (a) To
18 renew a license, a qualifying party of the license holder must:

19 (1) complete eight hours of continuing education
20 annually; and

21 (2) provide proof of maintenance of the insurance
22 required by this chapter.

23 (b) The department shall recognize, prepare, or administer
24 a continuing education program for the qualifying parties of
25 license holders. The department may recognize a course offered by a
26 trade association or other providers.

27 Sec. 1251.158. CONTRACT FORMS. (a) The department shall

1 prescribe two forms for use in roofing contracts:

2 (1) one form that discloses that the license holder
3 does not maintain general liability insurance coverage for work
4 performed under this chapter; and

5 (2) one form that discloses that the license holder
6 does maintain general liability insurance coverage for work
7 performed under this chapter.

8 (b) Each form must contain other appropriate contractual
9 information as determined by the department.

10 (c) Before commencing roofing contracting work, the license
11 holder must execute a contract with the customer on the appropriate
12 form.

13 Sec. 1251.159. USE, DISPLAY, AND ADVERTISEMENT OF LICENSE;
14 RULES. With the advice of the advisory board, the department shall
15 adopt rules relating to the use, display, and advertisement of a
16 license issued under this chapter.

17 Sec. 1251.160. DISPOSAL OF ROOFING MATERIALS; RULES. The
18 department shall adopt rules that require a license holder to
19 obtain a permit from an approved landfill to dispose of roofing
20 materials. The rules must include a requirement that a license
21 holder maintain a record for each disposal of roofing materials by
22 the license holder.

23 Sec. 1251.161. RECIPROCITY. The department may waive any
24 prerequisite, except an insurance requirement, to obtaining a
25 license for an applicant who holds a license issued by another
26 jurisdiction with which this state has a reciprocity agreement.
27 The commission may make an agreement, subject to the approval of the

1 governor, with another state to allow for licensing by reciprocity.

2 Sec. 1251.162. TEMPORARY LICENSE. (a) The department may
3 issue a temporary license to a license holder for a principal of a
4 license holder to serve as that license holder's qualifying party
5 if the original qualifying party for the license holder:

6 (1) becomes incapacitated and unable to serve in the
7 normal capacity of principal of the license holder; or

8 (2) is no longer available due to the dissolution of a
9 partnership, corporation, or other legal entity.

10 (b) The applicant for the temporary license shall apply to
11 the department on a form prescribed by the department and pay the
12 required fee.

13 (c) The temporary license is valid for 60 days beyond the
14 date of the next examination or six months, whichever is less. The
15 temporary license must be of the same class as the license being
16 replaced.

17 [Sections 1251.163-1251.200 reserved for expansion]

18 SUBCHAPTER E. PROHIBITED ACTIVITIES

19 Sec. 1251.201. PROPER ROOFING INSTALLATION REQUIRED.

20 (a) In this section, "mechanical integrity" means physical
21 installation of products, systems, or equipment in accordance with
22 their intended purpose and according to industry standards at least
23 as strict as the roofing manufacturers' specifications.

24 (b) The failure to provide proper installation consistent
25 with the manufacturer's specifications or consistent with commonly
26 accepted roofing practices, proper service, and mechanical
27 integrity under this chapter violates this chapter.

1 Sec. 1251.202. MISREPRESENTATION OF ROOFING CONTRACTING
2 SERVICES. An intentional or knowing misrepresentation of a
3 necessary roofing contracting service, roofing contracting service
4 to be provided, or a roofing contracting service that has been
5 provided, violates this chapter.

6 Sec. 1251.203. CERTAIN ADVERTISING PROHIBITED. A person
7 may not advertise to the public that the person is engaged in the
8 business of roofing contracting unless the person holds a license
9 issued under this chapter.

10 [Sections 1251.204-1251.250 reserved for expansion]

11 SUBCHAPTER F. PENALTIES AND ENFORCEMENT

12 Sec. 1251.251. DENIAL, SUSPENSION, OR REVOCATION OF
13 CERTIFICATE. (a) A violation of this chapter, a rule adopted
14 under this chapter, or an order issued under this chapter is a
15 ground for the denial, suspension, or revocation of a license and a
16 ground for the imposition of an administrative penalty under
17 Subchapter F, Chapter 51.

18 (b) The department may place on probation a person whose
19 license is suspended. If a license suspension is probated, the
20 department may require the person to:

21 (1) report regularly to the department on matters that
22 are the basis of the probation;

23 (2) limit practice to the areas prescribed by the
24 department; or

25 (3) continue or review professional education until
26 the person or the person's qualifying party attains a degree of
27 skill satisfactory to the department in those areas that are the

1 basis of the probation.

2 Sec. 1251.252. EMERGENCY ORDERS. (a) The department may
3 issue an emergency order as necessary to enforce this chapter if the
4 department determines that an emergency exists or formerly existed
5 requiring immediate temporary action to protect the public health
6 and safety. The order may be issued without notice and hearing or
7 with notice and hearing as the department considers practicable
8 under the circumstances.

9 (b) If an emergency order is issued under this section
10 without a hearing, the department shall set the time and place for a
11 hearing to affirm, modify, or set aside the emergency order.

12 Sec. 1251.253. CEASE AND DESIST ORDERS. The department may
13 issue a cease and desist order regarding a violation of this
14 chapter.

15 Sec. 1251.254. MUNICIPAL REGULATION. (a) A municipality
16 may by ordinance adopt and enforce standards for roofing
17 contractors that are consistent with the standards established
18 under this chapter.

19 (b) A municipality may not impose a license or registration
20 fee on a roofing contractor licensed under this chapter.

21 (c) The municipality may report a violation of this chapter
22 to the commission. If the municipality elects to report the
23 violation, it shall do so not later than the 10th day after the date
24 on which it discovers the violation.

25 (d) Conviction of an offense under the municipal ordinance
26 is a ground for the denial, suspension, or revocation of a license
27 under Section 1251.251.

1 Sec. 1251.255. ENFORCEMENT OF CONTRACTS. (a) A person who
2 performs roofing contracting without holding the appropriate
3 license may not collect a fee or otherwise enforce a contract for
4 the roofing service performed. To enforce a contract for the
5 performance of roofing contracting, the person performing the
6 service must present proof that the person held a license at the
7 time the contract was signed and the work was performed.

8 (b) The department director shall adopt rules relating to
9 the manner in which proof may be presented under this section.

10 SECTION 2. (a) The Texas Department of Licensing and
11 Regulation shall issue a roofing contractor license under
12 Subchapter D, Chapter 1251, Occupations Code, as added by this Act,
13 without an examination for the qualifying party if the qualifying
14 party:

15 (1) provides proof satisfactory to the department, on
16 or before September 1, 2004, that the qualifying party:

17 (A) has been engaged in the business of roofing
18 contracting during the five years preceding the date of the license
19 application; or

20 (B) is, as of the date of the application, a
21 certified roofing contractor in good standing as tested and
22 approved by a roofing trade association recognized by the
23 department, as shown by a copy of the contractor's certification
24 attested to by the trade association;

25 (2) applies to the executive director of the Texas
26 Department of Licensing and Regulation not later than July 31,
27 2004; and

1 (3) pays the required fee.

2 (b) A person who is issued a license under this section and
3 the qualifying party for that license holder are subject to all
4 other provisions of Chapter 1251, Occupations Code, as added by
5 this Act, including provisions for the renewal of the roofing
6 contractor license.

7 SECTION 3. In making the initial appointments to the
8 Roofing Contractors Advisory Board, the presiding officer of the
9 Texas Commission of Licensing and Regulation, with the approval of
10 the commission, shall designate two members for terms expiring on
11 February 1, 2005, two members for terms expiring on February 1,
12 2007, and two members for terms expiring on February 1, 2009. An
13 initial board member appointed under Subdivision (1), Subsection
14 (a), Section 1251.103, Occupations Code, as added by this Act, is
15 not required to hold a license until September 1, 2004, but must be
16 eligible to hold a license under Chapter 1251, Occupations Code, as
17 added by this Act, as of the time of the initial appointment.

18 SECTION 4. (a) Except as provided by Subsection (b) of
19 this section, this Act takes effect September 1, 2003.

20 (b) Section 1251.151 and Subchapters E and F, Chapter 1251,
21 Occupations Code, as added by this Act, take effect September 1,
22 2004.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 9, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1176 by Harris (relating to the regulation of roofing contractors; providing penalties.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for SB1176, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from GENERAL REVENUE FUND 1	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2003
2004	\$89,960	(\$89,960)	1.0
2005	\$89,913	(\$89,913)	2.0
2006	\$142,866	(\$142,866)	2.8
2007	\$142,866	(\$142,866)	2.8
2008	\$142,866	(\$142,866)	2.8

Fiscal Analysis

The bill would require the Department of Licensing and Regulation to license roofing contractors and provides for criminal and administrative penalties. It would authorize rule making and a six member advisory board. It would also require the agency to provide examinations for each class of license, verify insurance requirements are met, recognize or approve continuing education classes required for renewal, provide an on-line directory of licensees, and investigate consumer complaints. The bill would authorize the agency to enter into contracts with other agencies to enforce the law and rules.

Applicants who have been certified by a trade association recognized by the agency could be grandfathered into licensure without examination if they apply by September 1, 2004, and applicants who

have not been certified by a trade association but have been working in the industry for the past five years would be licensed upon application, but must pass the appropriate exam(s) by September 1, 2005 to keep the license. Roofing contractors who collect less than \$250,000 in revenue per year would be exempt from licensure.

The bill would take effect September 1, 2003.

Methodology

The Department of Licensing and Regulation anticipates a regulated population of about 3,500 individuals with approximately 3,150 renewals and 350 new licensees each year. The agency would require \$36,960, along with 0.75 Administrative Technician II FTEs and 0.25 Accountant II FTE, each year to process the additional license population.

The agency anticipates that complaints would be received starting in fiscal year 2005 when the sections of the bill relating to standards and complaints take effect. The agency assumes there would be 150 complaints filed in fiscal year 2005 and 300 filed in each year thereafter. The agency assumes that 5 percent of complaints received would generate a hearing. In fiscal year 2005 the agency anticipates 8 complaints and in each year thereafter the agency anticipates 15 complaints. The agency would require \$52,953, along with 0.25 Investigator IV FTE, 0.5 Legal Assistant III FTE, and 0.25 Attorney IV FTE in fiscal year 2005; and \$105,906, along with 0.5 Investigator IV FTE, 0.25 Administrative Technician III FTE, 0.5 Legal Assistant III FTE, and 0.5 Attorney IV FTE in each year thereafter to process the additional complaints.

The agency would be required to develop two exams and translate each into Spanish for a total cost of \$53,000 in FY 2004.

It is assumed the agency would adjust fees to offset any costs associated with implementing the provisions of the bill.

Technology

The agency would require additional funding for computers and related equipment for the additional FTEs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, KG, JRO, RT, RB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 23, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1176 by Harris (Relating to the regulation of roofing contractors; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1176. As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2003
2004	\$116,360	(\$116,360)	2.0
2005	\$154,137	(\$154,137)	3.8
2006	\$244,914	(\$244,914)	5.5
2007	\$244,914	(\$244,914)	5.5
2008	\$244,914	(\$244,914)	5.5

Fiscal Analysis

The bill would require the Department of Licensing and Regulation to license roofing contractors and provides for criminal and administrative penalties. It would authorize rule making and a six member advisory board. It would also require the agency to provide examinations for each class of license, verify insurance requirements are met, recognize or approve continuing education classes required for renewal, provide an on-line directory of licensees, and investigate consumer complaints. The bill would authorize the agency to enter into contracts with other agencies to enforce the law and rules.

Applicants who have been certified by a trade association recognized by the agency could be grandfathered into licensure without examination if they apply by September 1, 2004, and applicants who

have not been certified by a trade association but have been working in the industry for the past five years would be licensed upon application, but must pass the appropriate exam(s) by September 1, 2005 to keep the license.

The bill would take effect September 1, 2003.

Methodology

The Department of Licensing and Regulation anticipates a regulated population of about 6,000 individuals with approximately 5,400 renewals and 600 new licensees each year. The agency would require \$63,360, along with 1.5 Administrative Technician II FTEs and 0.5 Accountant II FTE, each year to process the additional license population.

The agency anticipates that complaints would be received starting in fiscal year 2005 when the sections of the bill relating to standards and complaints take effect. The agency assumes there would be 300 complaints filed in fiscal year 2005 and 600 filed in each year thereafter. The agency assumes that 5 percent of complaints received would generate a hearing. In fiscal year 2005 the agency anticipates 15 complaints and in each year thereafter the agency anticipates 30 complaints. The agency would require \$90,777, along with 0.5 Investigator IV FTE, 0.25 Administrative Technician III FTE, 0.5 Legal Assistant III FTE, and 0.5 Attorney IV FTE in fiscal year 2005; and \$181,554, along with 1 Investigator IV FTE, 0.5 Administrative Technician III FTE, 1 Legal Assistant III FTE, and 1 Attorney IV FTE in each year thereafter to process the additional complaints.

The agency would be required to develop two exams and translate each into Spanish for a total cost of \$53,000 in FY 2004.

It is assumed the agency would adjust fees to offset any costs associated with implementing the provisions of the bill.

Technology

The agency would require additional funding for computers and related equipment for the additional FTEs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, KG, JRO, RT, RB

S.B. No. 1176

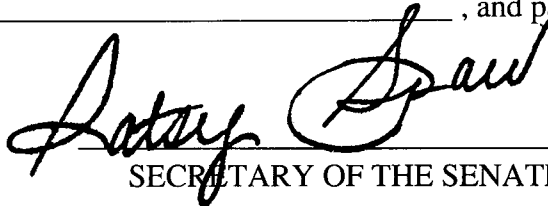
By HARRIS

A BILL TO BE ENTITLED

AN ACT:

relating to the regulation of roofing contractors; providing penalties.

3-11-03 Filed with the Secretary of the Senate
MAR 19 2003 Read and referred to Committee on BUSINESS AND COMMERCE
Reported favorably _____
MAY 09 2003 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
Ordered not printed
Laid before the Senate
MAY 16 2003 Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays
MAY 16 2003 Read second time, amended, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays
MAY 16 2003 Senate and Constitutional 3 Day Rule suspended by a vote of 31 yeas, 0 nays.
MAY 16 2003 Read third time, _____, and passed by: { A viva voce vote
_____ yeas, _____ nays



SECRETARY OF THE SENATE

OTHER ACTION:

May 14, 2003 Engrossed
May 17, 2003 Sent to House

Engrossing Clerk Mandi Alleyance

MAY 19 2003 Received from the Senate
MAY 20 2003 Read first time and referred to Committee on Licensing & Administrative Procedures
Reported _____ favorably (as amended) (as substituted)
Sent to Committee on (Calendars) (Local & Consent Calendars)
Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)
Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting.
Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)
Returned to Senate.

CHIEF CLERK OF THE HOUSE
Returned from House without amendment.
Returned from House with _____ amendments.
Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays